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6 OVERSIGHT OF THE EQUIFAX DATA BREACH:

7 ANSWERS FOR CONSUMERS

8 TUESDAY, OCTOBER 3, 2017

9 House of Representatives

10 Subcommittee on Digital Commerce and Consumer

11 Protection

12 Committee on Energy and Commerce

13 Washington, D.C.

14

15

16

17 The subcommittee met, pursuant to call, at 10:00 a.m., in
18 Room 2123 Rayburn House Office Building, Hon. Robert Latta
19 [chairman of the subcommittee] presiding.

20 Members present: Representatives Latta, Harper, Burgess,
21 Upton, Lance, Guthrie, McKinley, Kinzinger, Bilirakis, Bucshon,
22 Mullin, Walters, Costello, Walden (ex officio), Schakowsky,
23 Lujan, Clarke, Cardenas, Dingell, Matsui, Welch, Kennedy, Green,

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1 and Pallone (ex officio).

2 Also present: Representatives Barton, Murphy, Carter,
3 Degette, Tonko, and McNerney.

4 Staff present: Jennifer Barblan, Chief Counsel, Oversight
5 & Investigations; Ray Baum, Staff Director; Karen Christian,
6 General Counsel; Kelly Collins, Staff Assistant; Zachary
7 Dareshori, Staff Assistant; Jordan Davis, Director of Policy and
8 External Affairs; Melissa Froelich, Chief Counsel, Digital
9 Commerce and Consumer Protection; Adam Fromm, Director of
10 Outreach and Coalitions; Ali Fulling, Legislative Clerk,
11 Oversight & Investigations, Digital Commerce and Consumer
12 Protection; Theresa Gambo, Human Resources/Office Administrator;
13 Elena Hernandez, Press Secretary; Zach Hunter, Director of
14 Communications; Bijan Koochmarai, Counsel, Digital Commerce and
15 Consumer Protection; Alex Miller, Video Production Aide and Press
16 Assistant; Mark Ratner, Policy Coordinator; Dan Schneider, Press
17 Secretary; Sam Spector, Policy Coordinator, Oversight &
18 Investigations; Madeline Vey, Policy Coordinator, Digital
19 Commerce and Consumer Protection; Hamlin Wade, Special Advisor,
20 External Affairs; Jessica Wilkerson, Professional Staff,
21 Oversight & Investigations; Everett Winnick, Director of
22 Information Technology; Greg Zerzan, Counsel, Digital Commerce
23 and Consumer Protection; Michelle Ash, Minority Chief Counsel,

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1 Digital Commerce and Consumer Protection; Priscilla Barbour,
2 Minority Energy Fellow; Jean Fruci, Minority Energy and
3 Environment Policy Advisor; Rick Kessler, Minority Senior Advisor
4 and Staff Director, Energy and Environment; Alexander Ratner,
5 Minority Policy Analyst; and Tuley Wright, Minority Energy and
6 Environment Policy Advisor.

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1 Mr. Latta. Good morning. The Subcommittee on Digital
2 Commerce and Consumer Protection will come to order. The chair
3 now recognizes himself for 5 minutes for an opening statement.

4 Good morning. Today we are here to get the facts to learn
5 what happened at Equifax that led to the personal information of
6 over 143 million Americans' information being stolen. Americans
7 need to know what Equifax is doing to fix the problem and help
8 individuals that are impacted. We must find out what happened.
9 The public deserves to know what happened and what steps are being
10 taken to protect their sensitive data going forward.

11 Today's hearing needs to shed some much needed information
12 and light on this breach. We have received assurances from
13 Equifax that Mr. Smith can speak for the company on concrete
14 remediation steps that the company took in the aftermath to secure
15 its computer systems to protect the affected U.S. customers as
16 well as what happened when he was chief executive.

17 As chairman of the Digital Commerce and Consumer Protection
18 Subcommittee, I often speak about the fact that we live in a
19 digitally-connected world. That fact of life can have many
20 positive implications, far and wide-ranging, for commerce, trade,
21 communications, and entertainment. The breach is a massive
22 reminder of the bad actors that are out there and the security
23 challenges confronting our digitally integrated and data-powered

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1 economy.

2 In this case, sensitive personal information that is used
3 to build credit histories and allow individuals to engage in
4 commerce, open credit cards, buy cell phones and appliances, and
5 secure mortgages has been compromised. Reasonable security
6 measures must be implemented, practiced, and continually improved
7 by companies that collect and store data in order to guard against
8 unauthorized access to sensitive personal information.
9 Otherwise, consumers will face substantial financial harm.

10 This risk is deeply concerning to me and I know that the other
11 members of the subcommittee share this view. Priority number
12 one: We must protect Americans and work to safeguard their
13 personal information online. The recent Equifax data breach is
14 unprecedented and is also unique because of the sensitivity of
15 the information stolen, including full nine-digit Social Security
16 numbers.

17 Over 143 million Americans are potentially impacted. This
18 represents approximately 44 percent of the total U.S. population.
19 In my home state of Ohio, approximately 5.2 million customers are
20 likely affected. Based on the information released by Equifax,
21 we are informed that the massive amounts of personal and financial
22 information was assessed from mid-May through July 2017,
23 including names, birthdates, addresses, and in some cases

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1 driver's license information. In addition, over 200,000 people
2 had their credit card information stolen and over 180,000 people
3 had credit dispute documentation stolen.

4 This is a staggering amount of sensitive personal
5 information and impacts an extraordinary number of credit-visible
6 Americans that is in the hands of criminals that could result in
7 fraud or identity theft. We need these numbers confirmed.

8 Today, we must understand the following: First, how did the
9 hackers get into Equifax's system for so many weeks and pull so
10 much information out of the system without being detected?

11 Second, what processes and procedures were in place in the
12 event of such a breach and were those processes followed? There
13 are many questions as to who knew what and when this information
14 was known. This will have implications in other ongoing
15 investigations. Further, the chief information officer and
16 chief security officer made retirement announcements shortly
17 after the public notice of the breach and have not been available
18 for questions about their role.

19 Again, despite months of delay, why was Equifax's
20 notification and consumer protection process still met with
21 misinformation, glitches, and overall confusion? For example,
22 there were numerous reports of difficulties accessing Equifax's
23 dedicated website or call centers. And there were dismaying

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1 reports that the official Equifax Twitter account directed
2 consumers to a fake website.

3 I believe the American public deserves to know the facts
4 about when and how Mr. Smith, company management, and the board
5 of directors were made aware its systems were vulnerable to
6 hackers and how over 143 million sensitive personal data records
7 were stolen. To that end, what were the steps taken and in what
8 timeframe to notify and help individuals that were impacted? I
9 look forward to getting these answers today and many more
10 questions for the American people answered this morning.

11 And at this time I will ask the gentlelady from Illinois,
12 the ranking minority member, for 5 minutes for her opening
13 statement.

14 Ms. Schakowsky. Thank you, Mr. Chairman, for holding this
15 hearing. The Equifax data breach was massive in scale: 145.5
16 million American victims as of yesterday. I would call it
17 shocking, but is it really? We have these underregulated,
18 private, for-profit credit reporting agencies collecting
19 detailed personal and financial information about American
20 consumers. It is a treasure trove for hackers.

21 Consumers don't have a choice over what information Equifax
22 or, for example, TransUnion, or Experian have collected, stored,
23 and sold. If you want to participate in today's modern economy,

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1 if you want to get a credit card, rent an apartment, or even get
2 a job, often then a credit reporting agency may hold the key.

3 Because consumers don't have a choice, we can't trust credit
4 reporting agencies to self-regulate. It is not like when you get
5 sick at a restaurant and decide not to go there anymore. Equifax
6 collects your data whether you want to have it collected or not.
7 If it has incorrect information it is really an arduous process
8 -- I have tried it -- to get it corrected. When it comes to
9 information security you are at the mercy of whatever Equifax
10 decides is right and once your information is compromised the
11 damage is ongoing.

12 Given vast quantities of information and lack of
13 accountability, a major breach at Equifax I would say would be
14 predictable if not inevitable. I should really say breaches.
15 This is the third major breach Equifax has had in the past 2 years.
16 From media reports and the subcommittee's meeting with Equifax
17 officials after the breach, it is clear to me that the company
18 lacked appropriate policies and practices around data security.

19 This particular breach occurred when hackers exploited a
20 known vulnerability that was not yet patched. It was months later
21 before Equifax first discovered the breach, and it was another
22 several weeks before Equifax shared news with the consumers, this
23 committee, the Federal Trade Commission, and the Consumer

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1 Financial Protection Bureau.

2 Senior officials at the company are saying they weren't
3 immediately aware that the breach occurred, and yet by the way
4 there were executives who sold over a million dollars in stock
5 just before, days after the breach was discovered but yet not
6 reported. And for a lot of Americans that just doesn't pass the
7 smell test.

8 The response to the breach was its own debacle. Equifax
9 offered consumers credit monitoring services that initially came
10 with a mandatory arbitration clause which fortunately has been
11 corrected; Equifax tweeted links to the wrong URL directing
12 victims to a fake website; the call center was understaffed; and
13 in the end Equifax has had to apologize for its supposed breach
14 response almost as much as it has apologized for the breach itself.

15 Equifax deserves to be shamed in this hearing, but we should
16 also ask what Congress has done or failed to do to stop data
17 breaches from occurring and what Equifax plans to do. The same
18 day the Equifax breach went public the House Financial Services
19 Committee held a hearing on FCRA Liability Harmonization Act, a
20 bill to protect credit reporting agencies like Equifax from class
21 action suits -- imagine.

22 In fact, Equifax was lobbying for this bill after the breach
23 was discovered in July, still not reported, and the 14 Republicans

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1 sponsoring this bill should ask themselves whether this is really
2 the industry they want to be in bed with. Companies like Equifax
3 need more accountability not less. I agree with the CFPB director
4 Richard Cordray that the credit reporting agencies need embedded
5 regulators to protect consumers' sensitive information.

6 And then we need to go further. Last night, I reintroduced
7 the Secure and Protect Americans' Data Act, along with Ranking
8 Member Pallone and seven other members of the Energy and Commerce
9 Committee. And our bill would establish, one, strong data
10 security standards; two, require prompt breach notification,
11 which we didn't get; and three, provide appropriate relief for
12 breached victims.

13 Chairman Latta, American consumers don't just need answers,
14 they need action. I hope that our bill can be a starting point
15 for discussion on strengthening protections for Americans' data.
16 Consumers deserve a whole lot better than they got from Equifax.
17 And I yield back.

18 Mr. Latta. Thank you very much. The gentlelady yields
19 back. The chair now recognizes the gentleman from Oregon, the
20 chairman of the full committee, for 5 minutes.

21 The Chairman. I thank the chairman. We are here to do today
22 what it appears Equifax failed to do over the last several months
23 and that is put consumers first. Our job is to get answers for

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1 the more than 145 million Americans who have had their personal
2 information compromised and now fear they could be victims of
3 fraud at any time.

4 How could a major U.S. company like Equifax, which holds the
5 most sensitive and personal data on Americans so let them down?
6 It is like the guards at Fort Knox forgot to lock the doors and
7 failed to notice the thieves were emptying the vaults. The
8 American people deserve to know what went wrong. We want a clear
9 timeline of events and to understand what to expect moving
10 forward.

11 Mr. Chairman, the Energy and Commerce Committee have always
12 tried to put our consumers first in everything we do on public
13 policy. So today we will begin to get the answers for the public,
14 hold Equifax accountable, and make clear that businesses holding
15 America's most sensitive data have a responsibility under
16 existing laws to protect those data. Today gives whole new
17 meaning to Mr. Smith Goes To Washington. It is not a run on the
18 bank that is at issue, it is a run on financial records of 145
19 million Americans. And the consequences and the inconveniences
20 for our fellow citizens is every bit as important to discuss today
21 as the reasons behind why this breach occurred in the first place.

22 Mr. Smith, as former chairman and CEO of Equifax at the helm
23 during and immediately after the breach, we appreciate you being

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1 here and we expect your candor and full cooperation as we march
2 toward getting the facts in this case. While there is no such
3 thing as perfect security, companies do have a legal obligation
4 to protect sensitive consumer data. This diligence is necessary
5 to both comply with existing laws and maybe more importantly earn
6 and keep the public's trust in a data-driven economy.

7 Given the size of the breach and the sensitivity of the data,
8 we expect to learn more about how Equifax failed to secure its
9 systems and what contingency plans were in place. Further, we
10 need to understand how information flowed through the
11 organization and when you and other senior executives were
12 notified about the breach. In other words, how important was
13 cybersecurity to you as a CEO and to the rest of your executive
14 team? Did your employees have a way to report to you if they had
15 concerns about how the security team was functioning?

16 While there are still many questions that need answers, a
17 few details have emerged. First, the vulnerability that the
18 hackers used to get into the Equifax system was discovered in early
19 March. From the beginning, the vulnerability was described as
20 critical and easily exploitable. That information was pushed out
21 through multiple security information sharing channels including
22 by the U.S. Computer Emergency Readiness Team to Equifax's chief
23 security officer.

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1 For some period of time between March and August of 2017,
2 the hackers were able to sit on Equifax's system and siphon out
3 145 million records without being detected. How did this go
4 unnoticed? Further, is there a process in place to raise flags
5 or alarms when massive amounts of data are pulled out of the
6 Equifax system?

7 Then there are questions about Equifax's response for
8 consumers that we need answers to. Why was the consumer-facing
9 website created on a separate domain from the main Equifax
10 website? Did anyone raise concerns about creating more consumer
11 confusion with a separate website? Are consumers able to sign
12 up for the products offered by Equifax today? How many consumers
13 have placed a fraud alert on their account or frozen their credit?

14 And on top of all the other issues, multiple times Equifax
15 tweeted the wrong URL directing consumers to the wrong website
16 to check if they were part of a breach. Talk about ham-handed
17 responses, this is simply unacceptable and it makes me wonder
18 whether there was a breach response plan in place at all and if
19 anyone was in charge of overseeing and executing that plan. I
20 have to agree with the interim CEO when he said there is
21 insufficient support for consumers.

22 It is important that as Congress does its work on public
23 policy issues that the Federal Trade Commission and other

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1 agencies, including law enforcement agencies, continue their work
2 especially in light of recent reports that indicated there are
3 markers of nation state activity involved with this hack. But
4 today, Mr. Smith, I and the rest of the committee and Congress
5 and the country expect the answers. After all, the buck does stop
6 with you as CEO and I thank you for being here. And I return the
7 balance of my time.

8 Mr. Latta. Thank you very much. The gentleman yields back
9 and the chair now recognizes the gentleman from New Jersey, the
10 ranking member of the full committee. Good morning.

11 Mr. Pallone. Thank you, Mr. Chairman. While I understand
12 that law enforcement and internal investigations into this
13 incident are still ongoing, I expect to get more information today
14 on what happened and why it took so long to inform the public.
15 Most importantly, we want answers for consumers because Equifax's
16 response to this breach has been unacceptable. So too has been
17 Equifax's ongoing lax attitude when it comes to protecting
18 consumer data.

19 It has been 4 weeks since the breach was made public and at
20 least 10 weeks since it was discovered by Equifax's employees,
21 yet Equifax's customer service has been confusing and unhelpful.
22 Equifax even tweeted a link to a fake website. Many of the
23 remedies Equifax is now offering to consumers were not offered

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1 upfront or in good faith. They were forced out of the company
2 only after a public outcry and they are still inadequate.

3 It is hard to imagine that anyone at Equifax thought it was
4 a good idea to offer only 1 year of credit monitoring, with an
5 arbitration clause at first to boot. Free and comprehensive
6 credit monitoring and identity theft protection should be offered
7 for far longer than a year. Most recently, Equifax added lifetime
8 credit locks to its offering which consumer advocates suggest are
9 weaker than credit freezes. Regardless, a lock or a freeze at
10 only one credit bureau is almost useless. Equifax should work
11 with the other credit bureaus to immediately create a free, quick,
12 and easy-to-use freeze and unfreeze one-stop shop.

13 And because credit freezes or locks may not work for
14 everyone, going forward Equifax should do more than credit locks.
15 It should give consumers more control over how their data is used
16 and stored. In addition, if Equifax wants to stay in business,
17 its entire corporate culture needs to change to one that values
18 security and transparency. After all, this is not Equifax's
19 first data breach in the past year.

20 Consumers do not have any say in whether or not the Equifax
21 collects and shares their data and that is what makes this breach
22 so concerning. This is unlike other breaches at stores such as
23 Target and Michael's where consumers could make a choice and

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1 change their shopping habits if they were upset with how the
2 companies protected data. That is simply not the case with
3 Equifax.

4 While data breaches have unfortunately become commonplace,
5 it is long past time for Congress, beginning with this committee,
6 to act. Since at least 2005, this subcommittee has been
7 considering data breach legislation but it has never become law
8 and it is time we changed that. Yesterday, Ranking Member
9 Schakowsky and I reintroduced the Secure and Protect Americans'
10 Data Act. This bill would require enforceable, robust data
11 security practices and meaningful notice to consumers. It would
12 also give additional protections to consumers after a breach. Of
13 course, breaches will continue to occur, but they occur more often
14 when there is no accountability and no preventive measures are
15 in place. And our bill will not stop mistakes and cyber crimes
16 from happening, but we need to start somewhere.

17 So Mr. Smith, I read your op-ed in USA Today last month and
18 the new CEO's op-ed in the Wall Street Journal last week and I
19 appreciate that you are both sorry, but my question is what now?
20 I would like to yield now the remainder of my time to my colleague
21 from New Mexico.

22 Mr. Lujan. Thank you to our ranking member, Mr. Pallone,
23 and I thank the committee's leadership for organizing this

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1 important hearing. 145,500 thousand million Americans, 145.5
2 million people at risk because of Equifax's failure. Now Mr.
3 Smith, the American people deserve answers and I hope you are
4 prepared to provide them. Not just about what caused the breach,
5 but what Equifax is doing to prevent this from happening again
6 and to ensure that those who were harmed are made whole.

7 I worry that your job today is about damage control, to put
8 a happy face on your firm's disgraceful actions and then depart
9 with a golden parachute. Unfortunately, if fraudsters destroy
10 my constituents' savings and financial futures there is no golden
11 parachute awaiting them. We have questions and it is our
12 expectation that you have concrete answers.

13 And I hope this hearing is just the start of our committee's
14 work. We need to work together to hammer out real solutions. I
15 recently took a step in that direction by introducing the Free
16 Credit Freeze Act to allow consumers to protect themselves by
17 freezing and unfreezing their credit at no charge. It is
18 unconscionable that Equifax failed so spectacularly to protect
19 people's most sensitive personal data. It is even more
20 reprehensible that the same company profits from the pain that
21 they have caused.

22 And I certainly hope that we can get some assurances from
23 the committee's leadership that we will have a markup and a hearing

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1 on legislation to address this mess, and I hope that assurance
2 can be given before the holidays of 2017. I yield back the balance
3 of my time.

4 Mr. Latta. Thank you very much. The gentleman yields back
5 and this concludes our member opening statements. The chair
6 would remind members that pursuant to the committee rules, all
7 members' opening statements will be made part of the record.

8 Today we have Mr. Richard Smith, the former chairman and CEO
9 of Equifax, Inc., who is here to testify before the subcommittee.
10 Mr. Smith will have the opportunity to give an opening statement
11 followed by a round of questions from our members. And Mr. Smith,
12 you are recognized for 5 minutes. Thank you.

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1 STATEMENT OF RICHARD SMITH, FORMER CHAIRMAN AND CEO OF EQUIFAX,
2 INC.

3
4 Mr. Smith. Thank you. Chairman Walden, Ranking Member
5 Pallone, Chairman Latta, Ranking Member Schakowsky, and the
6 honorable members of the subcommittee, it is an honor to be here
7 before you today.

8 My name is Rick Smith and for the last 12 years I have had
9 the honor of being the CEO and chairman of Equifax. Earlier this
10 week, I submitted a written testimony which at this time I don't
11 plan on going through any detail on that but rather I am here today
12 to explain to you and the American people how criminal hackers
13 were able to steal personal information on over 145 million
14 Americans from our servers, and as importantly to discuss with
15 you today what our company's response was to that criminal hack.

16 The criminal hack happened on my watch and as CEO I am
17 ultimately responsible and I take full responsibility. I am here
18 today to say to each and every person affected by this breach I
19 am truly and deeply sorry for what happened. I have talked to
20 many consumers, I have read your letters, and Equifax is committed
21 to make it whole for you. Americans have a right to know how this
22 happened and I am prepared to testify today about what I have
23 learned and what I did about this incident in my role as CEO and

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1 as chairman of the board, and also what I know about the incident
2 as a result of being briefed by the company's investigation which
3 is ongoing.

4 We know now that this criminal attack was made possible
5 because of a combination of human error and technological error.
6 The human error involved the failure to apply a software patch
7 to our dispute portal in March of 2017. The technological error
8 involved a scanner which failed to detect that vulnerability on
9 that particular portal. Both errors have since been addressed.

10 On July 29th and July 30th, suspicious activity was detected
11 and a team followed our security incident protocol. The team
12 immediately shut down the portal and began our internal security
13 investigation. On August 2nd, we hired top cybersecurity
14 forensic and legal experts and at that time we notified the FBI.
15 At that time, to be clear, we did not know the nature or the scope
16 of the incident. It was not until late August that we concluded
17 that we had experienced a major breach.

18 Over the weeks leading up to September 7th, our team
19 continued working around the clock to prepare. We took four steps
20 to protect consumers. Step number one, determining when and how
21 to notify the public, relying on the advice of our experts that
22 we needed to have a plan in place as soon as we announced. Step
23 two, helping consumers by developing a website, staffing up

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1 massive call centers, and offering services free to every
2 American. Three, preparing for increased cyber attacks which we
3 were advised by the cybersecurity experts that we should expect.
4 And finally, continue to coordinate with the FBI and their
5 criminal investigation of the hackers and also to notify other
6 federal and state agencies.

7 In the rollout of our remediation program mistakes were made
8 for which again I deeply apologize. I regret the frustration that
9 many Americans felt when our websites and call centers were
10 overwhelmed in the early days. It is no excuse, but it certainly
11 did not help that Hurricane Irma took down two of our larger call
12 centers in the first few days after the breach. Since then,
13 however, the company has dramatically increased its capacity and
14 I can report to you today that we have handled over 420 million
15 consumer visits to our website in just over 3 weeks and the wait
16 times at the call centers have been substantially reduced.

17 At my direction, the company offered a broad package of
18 services to all Americans. In addition, we developed a new
19 service available on January 31st, 2018 that will give all
20 consumers the power to control access to their credit data by
21 allowing them to lock and unlock their credit files when they want
22 and they can do that for free for life.

23 Putting the power to control access to credit data in the

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1 hands of the American consumer is a step forward. I look forward
2 to discussing this new tool with you during my testimony. As we
3 have all painfully learned, data security is a national security
4 problem. Putting the consumer in control of their credit data
5 is a first step towards a long-term solution to the industry and
6 the problem of identity theft.

7 But no single company can solve the larger problem on its
8 own. I believe we need a public-private partnership to evaluate
9 how to best protect Americans' personal data going forward and
10 I look forward to being a part of that dialogue.

11 Chairman Walden, Ranking Member Pallone, Chairman Latta,
12 Ranking Member Schakowsky, and the honorable members of the
13 subcommittee, thank you again for inviting me here today to speak
14 to you. I will close by saying again how sorry I am for this
15 breach. On a personal note, I want to thank the many hardworking
16 and dedicated employees who have worked with me so tirelessly over
17 the past 12 years at Equifax. Equifax is a very good company with
18 thousands of great people waking up every day trying to do what
19 is right. I know they will continue to work tirelessly as we have
20 over the past 2 months to right the wrong. I am looking forward
21 to answering your questions. Thank you.

22 [The prepared statement of Mr. Smith follows:]

23

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*****INSERT 1*****

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1 Mr. Latta. Thank you very much. This concludes our witness
2 testimony and we will move into the question and answer portion
3 of our hearing. I will begin with the questioning and recognize
4 myself for 5 minutes. And I would remind members because we do
5 have quite a few members who want to ask questions today, I am
6 going to try to keep the 5-minute rule on questions in place so
7 you will hear the tapping. But I will begin with the questioning.

8 Mr. Smith, the timeline of events is raising some red flags
9 I would like to ask you about. According to your statement, the
10 first time you heard about the breach of security was on July the
11 31st of 2017; is that correct?

12 Mr. Smith. Yes, Congressman. That is correct.

13 Mr. Latta. And you first asked for a briefing about the
14 breach on August the 15th; is that correct?

15 Mr. Smith. Yes. That is correct.

16 Mr. Latta. And the first time the board of directors was
17 notified about the breach was August the 24th. Is that correct,
18 the full board?

19 Mr. Smith. Congressman, on the 22nd of August I notified
20 our lead director, presiding director at the time. The full board
21 was briefed on the 24th and again on the 25th and subsequent
22 meetings after that.

23 Mr. Latta. All right. And you notified the public about

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1 the breach on September the 7th, correct?

2 Mr. Smith. That is correct.

3 Mr. Latta. Okay. You state in your testimony that you
4 began developing the remediation for consumers on August the 24th
5 or the 25th. Why was there a 10-day delay between you finding
6 out that personal information had likely been stolen and beginning
7 to develop the remediation plan and do you think that 10-day window
8 was responsible for having learned about that personal
9 information being stolen to start talking about how to talk to
10 the consumers?

11 Mr. Smith. Congressman, I understand the question, if I may
12 go back to the timeframe of the 31st. So if you go to the 29th
13 and 30th, someone in security had detected what they deemed as
14 suspicious activity. That is something that happens routinely
15 around our business. On the 30th they bring down this particular
16 portal and they start their own internal investigation.

17 As I had mentioned in my opening comments and in my written
18 testimony, on the 2nd of August they had engaged leading forensic
19 experts, cyber experts, and leading -- King & Spalding, a leading
20 law firm, and their cybersecurity team. When you talk to the
21 forensics experts they will tell you the complications of trying
22 to understand where these criminals were, the footprints they had
23 left, the inquiries they had made, is a cumbersome, cumbersome

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1 process. That is why it took weeks before we had an indication
2 for the breadth and the depth of the issue which brought us to
3 the August 24th date that you had mentioned.

4 Mr. Latta. Well, let me just back up to July the 31st when
5 you learned, again you were talking with the experts at that time
6 and you learned about the breach and you testified that you did
7 not know that personal information had been stolen at that point.
8 But did you ask anyone if personal information had been stolen
9 when you found out about that breach?

10 Mr. Smith. Congressman, on the 31st, all I was told at that
11 time was that security had noticed a suspicious movement of data
12 out of an environment we call a dispute portal. It wasn't until
13 later that they understood that was an actual dispute document.
14 We had no indication on the 31st of July there was any PII
15 information that was vulnerable.

16 Mr. Latta. Okay, so I guess again, but again not knowing
17 if that information, if that personal information had been stolen
18 at that time, you know, your company is built on data and at any
19 point did you think it was important of if somebody in the company
20 started looking at if personal data had been stolen at that point?

21 Mr. Smith. Congressman, I can tell you we are working with
22 the best forensic auditors in the business. They do this for a
23 living. We had a great cyber team from King & Spalding with us.

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1 It took them time. At that time they did not know if data had
2 been compromised, exfiltrated, or what the data was.

3 Mr. Latta. If we could go back to when you did find out about
4 the breach and that conversation with your chief information
5 officer, Mr. Webb, how did he exactly tell you that there had been
6 a breach? Was it a phone call, an email, in person, or how did
7 he notify you of the breach?

8 Mr. Smith. It was a face-to-face brief meeting on the 31st.
9 At that time he had just learned as well, so the data was very
10 fresh to him. The incident was described as an incident not as
11 a breach.

12 Mr. Latta. Is that the normal way for that information if
13 there had been a breach at the company to notify someone is for
14 the CIO to come and just give a face-to-face, or what is -- is
15 that the standard operating procedure then?

16 Mr. Smith. Congressman, at that time we had no indication
17 it was a breach. It was a suspicious activity.

18 Mr. Latta. Did you tell anyone else in senior management
19 or any other members of the board of directors about the breach
20 at that time, or is it just not until you told the -- on August
21 the 22nd when you had the one call and then the 24th for the rest
22 of the board of directors did anyone else know about the breach?

23 Mr. Smith. Again it is important to say on July 31st we did

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1 not know it was a breach at that time, suspicious activity only.
2 The first notification to the board was the lead director on the
3 22nd of August, which followed in the chronology of events a
4 meeting I had with our cybersecurity experts and our outside
5 counsel had occurred on the 17th of August. That is when the
6 picture was starting to develop.

7 Mr. Latta. Thank you. My time is expired and I will
8 recognize the gentlelady from Illinois, the ranking member, for
9 5 minutes.

10 Ms. Schakowsky. Thank you, Mr. Chairman. I am going to get
11 right to it. I wanted to ask some questions about John Kelley,
12 the chief legal officer, who I understand is responsible for
13 security at Equifax or was at least at the time of the breach and
14 its discovery; is that right?

15 Mr. Smith. That is correct, Congresswoman.

16 Ms. Schakowsky. And Mr. Kelley in turn reports directly to
17 you the CEO, correct?

18 Mr. Smith. Correct.

19 Ms. Schakowsky. Okay. So we were told that Mr. Kelley was
20 informed by the chief security officer the week of July 30th --
21 we have just been talking about that -- that a cybersecurity
22 incident you mentioned that had occurred; is that correct?

23 Mr. Smith. He was notified, it is my understanding, on the

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1 31st of July.

2 Ms. Schakowsky. 31st, okay.

3 Mr. Smith. That there was suspicious activity in a
4 particular environment called a web portal that was a dispute
5 environment.

6 Ms. Schakowsky. We were told that Mr. Kelley -- this is our
7 staff -- was informed at the same time that the incident might
8 have compromised personally identifiable information; is that
9 correct?

10 Mr. Smith. The only knowledge I have is he was notified on
11 the 31st that there was suspicious activity in a consumer dispute
12 portal.

13 Ms. Schakowsky. Well, we were told that Mr. Kelley then
14 wrote a short memo to you regarding the incident; is that correct?

15 Mr. Smith. Correct, Congresswoman. And in his email it
16 said some suspicious activity.

17 Ms. Schakowsky. Okay. Around that same time, three
18 Equifax executives sold over \$1 million of Equifax stock. That
19 is on August 1st and August 2nd, and it is reported that Mr. Kelley
20 was ultimately responsible for approving those sales. Is it true
21 that Mr. Kelley or one of his direct reports would have been
22 required to sign off on these stock sales?

23 Mr. Smith. Yes. Mr. Kelley who is our general counsel owns

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1 the clearance process and he would --

2 Ms. Schakowsky. I have a lot of questions. So the answer
3 is yes, he was supposed to sign off?

4 Mr. Smith. Yes.

5 Ms. Schakowsky. Did anyone of these three executives have
6 knowledge the cybersecurity incident had occurred?

7 Mr. Smith. To the best of my knowledge, Congresswoman, no.

8 Ms. Schakowsky. When were they informed that the incident
9 had occurred?

10 Mr. Smith. I don't know exactly the date that they were
11 informed, but to the best of knowledge they had no knowledge at
12 the time they cleared their trades with the general counsel.

13 Ms. Schakowsky. Do you know for sure that they didn't know?

14 Mr. Smith. To the best of my knowledge they did not know.

15 Ms. Schakowsky. And Mr. Kelley, who we were told knew of
16 the breach and that it contained personal information and yet
17 still approved the stock sale, is he still chief legal officer
18 for Equifax?

19 Mr. Smith. Congresswoman, I would come back to it again,
20 he did not know it was a breach when he approved --

21 Ms. Schakowsky. That it could have been a breach.

22 Mr. Smith. All he knew at the time, it is my understanding,
23 is suspicious activity when he approved the sales.

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1 Ms. Schakowsky. What the heck does suspicious -- it could
2 be a breach, right?

3 Mr. Smith. It was deemed suspicious activity. We had no
4 indication that PII was in fact compromised at that time. We had
5 no idea if data was exfiltrated at that time.

6 Ms. Schakowsky. So now I understand that you agreed to
7 forego your 2017 bonus which has been about \$3 million for the
8 past 2 years, correct?

9 Mr. Smith. That is correct.

10 Ms. Schakowsky. But it has been reported that you will still
11 retain \$18 million in pension benefits from Equifax; is that
12 accurate?

13 Mr. Smith. That is correct.

14 Ms. Schakowsky. Retiring, which is the category right now
15 although the company maintains the right to change that
16 designation, also means you will be free to sell your Equifax stock
17 which is worth about \$24 million; is that correct?

18 Mr. Smith. Congresswoman, that calculation it is hard to
19 say. It is a complicated calculation. It depends on the total
20 shareholder return of the company at the time the stocks vest.
21 There is multiple variables. That may be an estimate, I have seen
22 different estimates, but it is hard to say what that number is
23 and we won't know until the end of the year.

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1 Ms. Schakowsky. And that is in addition to Equifax stock
2 you sold earlier in this year for \$19 million; is that correct?

3 Mr. Smith. That sounds correct.

4 Ms. Schakowsky. And according to one report, you could be
5 eligible for \$22 million in performance-based compensation
6 depending how Equifax stock performs in the next 3 years; is that
7 right?

8 Mr. Smith. Let me be very clear, if I may, Congresswoman.
9 When I announced my retirement and thought it was best for the
10 company to move forward with a new leader, I agreed to step down
11 at that time with no further compensation. I agreed I should not
12 get a bonus. I agreed there would be no severance. I asked for
13 nothing beyond what I had already earned.

14 Ms. Schakowsky. I was just informed by staff that the chief
15 security officer told the chief legal officer verbally that there
16 was PII that according to a call with staff yesterday that actually
17 there was a mention of the breach of personally identifiable
18 information. The CSO told that -- yes, told us in a call yesterday
19 is what I just heard from staff.

20 Mr. Smith. Congresswoman, I have no documentation, no
21 insight, no knowledge that anyone in the company had informed me
22 or in that case the chief security officer -- or the chief general
23 counsel that there was a breach on July 31st. Is that what you

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1 said?

2 Ms. Schakowsky. Yes. No, we didn't say a date. I am told
3 that our staff didn't say a date. Okay, let me just say I am glad
4 the FBI is looking into it and many state attorneys general. The
5 City of Chicago has sued, so we will probably get more information
6 that way as well. Thank you.

7 Mr. Latta. Thank you very much. The gentlelady's time has
8 expired. The chair now recognizes the chairman of the full
9 committee, the gentleman from Oregon, for 5 minutes.

10 The Chairman. Thank you, Mr. Chairman.

11 Mr. Smith, thanks again for being here today. As you know,
12 this is an example of an Equifax credit report in my hand. It
13 lists Social Security Numbers, address, credit history, debts,
14 all the sort of personal financial information. It is the
15 lifeblood of Equifax, right? I mean these data points are really,
16 really important to what you do as a company?

17 Mr. Smith. Congressman, that is correct.

18 The Chairman. It is a \$3 billion company, data on 820
19 million customers worldwide, and yet it appears this breach
20 happened because the company didn't know it was running certain
21 software on its system, right, the Apache Struts software that
22 had the patch requirement?

23 Mr. Smith. Congressman, as I alluded to in my opening

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1 comments and the written testimony, there was a human error and
2 a technology error that did not allow us to identify and cover.

3 The Chairman. And I think that is what we are trying to get
4 to here. If I understand it right, your own information
5 technology system did not tell the Equifax security division that
6 the Apache Struts software, which contained the vulnerability
7 that led to this breach, was running on the Equifax system. How
8 did that happen?

9 Mr. Smith. Congressman, the day after the notification came
10 out from CERT, the security team notified a wide range of people
11 in the technology team who were responsible for then finding the
12 vulnerability, applying the patch, and then, days later as is
13 typical protocol, to deploy a technology scanner to go then look
14 for the vulnerability, find the vulnerability, if it found a
15 vulnerability it knew it was not patched. Both human deployment
16 of the patch and the scanning deployment did not work. The
17 protocol was followed.

18 The Chairman. Okay, so then people ask us how does that
19 happen? If as a sophisticated of a company as you headed is with
20 so much at risk, how does this happen? And, you know, we have
21 colleagues that say we are going to double the fines, triple the
22 fines, put fines in, do all these things, but how does this happen
23 when so much is at stake? I don't think we can pass a law that

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1 excuse me for saying this but fix a stupid, I can't fix stupid
2 as a colleague of mine used to say. With so much at risk -- I
3 have talked to other software companies and people in this space
4 who say some companies have an automated system that when a patch
5 comes out it automatically gets installed. That is not what you
6 had necessarily, right?

7 Mr. Smith. I am unaware of an automatic patch. The system
8 we have in place is security gets notification and it is not
9 uncommon to get notification from software providers routinely
10 about vulnerabilities that are discovered.

11 The Chairman. Right.

12 Mr. Smith. They follow the protocol which is to notify the
13 appropriate people within the timeframe that the protocol called
14 for. Unfortunately, the human error was they did not find the
15 patch. Did not know --

16 The Chairman. If I could, the human error piece you
17 reference is that they didn't know that that particular software
18 was running on your system, Apache Struts was running? Because
19 that is what needed patching, right?

20 Mr. Smith. Congressman, great question, if I may clarify.

21 The Chairman. Yes, please.

22 Mr. Smith. The human error was the individual who is
23 responsible for communicating in the organization to apply the

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1 patch did not.

2 The Chairman. So does that mean that that individual knew
3 that the software was there and it needed to be patched and did
4 not communicate that to the team that does the patching? Is that
5 the heart of the issue here?

6 Mr. Smith. That is my understanding, sir.

7 The Chairman. And there is no, you know, I was on a bank
8 board for awhile and, you know, we always had sort of double checks
9 on everybody, right. Do you not have a double check of some sort,
10 an audit of some sort? Is there -- it seems like that was a single
11 point.

12 Mr. Smith. The double check was the scanning device that
13 was deployed a few days later.

14 The Chairman. But did the scanning device -- I don't know
15 how that process works. Does it know you have that software or
16 do you have to tell it that is what you are scanning for?

17 Mr. Smith. It is the latter. You have got to tell it what
18 it is looking for. It scans the environment looking for --

19 The Chairman. And so the individual who didn't tell the IT
20 team -- I will call it the IT team, whatever, the security team
21 -- that is where the individual failed. Was that the same person
22 telling them what to look for?

23 Mr. Smith. No. The scanner is deployed by the security

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1 team. And I should clarify there that the rationale or the reason
2 why the scanner or the technology piece did not locate the
3 vulnerability is still under investigation by outside counsel.

4 The Chairman. All right, one final question. You have
5 referenced the suspicious movements of data. You have referenced
6 incident. The American people think all of that is breach. How
7 regularly did you have incidents or suspicious movement of data?
8 Is this a routine thing that people call, hey, we had another
9 incident, we have another suspicious movement of data, or was this
10 sort of outside normal operations?

11 Mr. Smith. Congressman, thank you for that question. As
12 you alluded to in your comments, we do have a lot of data and our
13 primary goal is to protect that data. And we have experienced
14 millions of suspicious activity against our database any given
15 year.

16 The Chairman. But to the point that the head of your
17 security team comes to you and says, hey, we have another one?

18 Mr. Smith. Oh. That is not uncommon. It is not uncommon.

19 The Chairman. How often would that happen in the course of
20 a week that they would come to the CEO and say heads up?

21 Mr. Smith. I don't have a number for you, Congressman, but
22 it is not uncommon. It is not uncommon for us to engage forensic
23 audit firms. It is not uncommon for us to engage outside counsel

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1 to help us think things through when there is suspicious activity.
2 It is a part of doing business in a data business as you alluded
3 to.

4 The Chairman. Thank you for the indulgence on the
5 committee. I yield the balance of my time.

6 Mr. Latta. The gentleman yields back and the chair
7 recognizes the ranking member of the full committee, the gentleman
8 from New Jersey, for 5 minutes.

9 Mr. Pallone. Thank you.

10 Mr. Smith, you testified that on August 11th you were
11 informed that hackers had stolen, quote, a large amount of
12 consumers' personally identifiable information, unquote, in this
13 incident. And on August 17th, I guess a week later, you said in
14 a speech, and I quote, fraud is a huge opportunity for Equifax.
15 It is a massive, growing business for us, unquote. So I am just
16 looking for a number, Mr. Smith. At the time you gave that speech,
17 roughly how many consumers did you believe had been compromised
18 by the breach, if you could?

19 Mr. Smith. Congressman, if I may clarify, I think you
20 alluded to an August 11th date?

21 Mr. Pallone. August 11th, initially, and then August 17th
22 in the second speech.

23 Mr. Smith. August 11th I had no indication. I was not

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1 informed at that time. My notification was before the August 17th
2 meeting. And you alluded to a speech?

3 Mr. Pallone. Well, I am just -- yes. I mean on the 17th
4 you said in a speech, fraud is a huge opportunity for Equifax.
5 It is a massive growing business for us. I am just looking for
6 a number. At the time, roughly, how many consumers did you
7 believe had been compromised by the breach?

8 Mr. Smith. On August 17th, which is I think on or around
9 the date you had talked about that I gave a speech, we did not
10 know how much data was compromised, what data was compromised.
11 That story was still developing. And that speech you are alluding
12 to is a very common speech we have in communities. I think this
13 happened to be at a university that we talked to them, but at that
14 time when I gave that speech I did not know size, the scope of
15 the breach.

16 Mr. Pallone. All right. During your tenure at Equifax you
17 expanded the company's business into packaging and selling other
18 people's data. And in that August 17th speech you explained that
19 having free data with a gross margin of profit of about 90 percent
20 is, and I quote, a pretty unique model. And I get that this unique
21 model is a good deal for Equifax, but can you explain how it is
22 a good deal for consumers?

23 Mr. Smith. Thank you, Congressman. I think I understand

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1 the question. Our industry has been around for a number of years
2 as you know. In fact, Equifax is a 118 year old company. We are
3 part of a federally regulated ecosystem that enables consumers
4 to get access to credit when they want access to credit and
5 hopefully at the best rates available to them at that time. So
6 we are very vital to the flow of the economy not just in the U.S.
7 but around the world.

8 Mr. Pallone. All right. And I want to turn to what Equifax
9 is offering consumers in the wake of this breach, specifically
10 the free credit lock service that is supposed to be introduced
11 next year. We have been told that this free credit lock service
12 could require consumers to consent to Equifax sharing or selling
13 the information it collects from the service to third parties with
14 whom the individual already has a business relationship for
15 marketing or other purposes. Is that true?

16 Mr. Smith. This product will be a web-enabled,
17 mobile-enabled application that will allow a consumer at the time
18 he or she, if they decide they want access to credit, can simply
19 toggle on and toggle off that application to give the bank, credit
20 card issuer, auto lender, access to their credit file to approve
21 their own.

22 Mr. Pallone. Well, by agreeing to use the Equifax's lock
23 service will consumers also be opting in to any additional

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1 marketing arrangements either via Equifax or any of its partners?

2 Mr. Smith. Congressman, we are trying to change the
3 paradigm, and what I mean by that is this will be in an environment
4 viewed as a service, a utility not a product. But we know
5 cross-selling, up-selling, or any products available to the
6 consumer, when they go to get and sign up for the lock product
7 it is a service to them and that is the only product the service
8 will be able to get.

9 Mr. Pallone. Now will Equifax give consumers an easy and
10 free method to choose not to share their data in this way, even
11 if the consumer already has a business relationship with the third
12 party?

13 Mr. Smith. Yes, Congressman. I would envision as this
14 evolves over time the consumer will have the ability to invite
15 into their world who they want to have access and who they do not.
16 It will be their choice, their power not ours to make that
17 decision.

18 Mr. Pallone. Now last week, the interim CEO announced that
19 by January 31st of 2018 Equifax would make locking and unlocking
20 of a person's Equifax credit report free forever. A credit report
21 lock is already included in TrustedID Premier and other services
22 like credit monitoring and identity theft insurance. Will that
23 still end after 1 year?

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1 Mr. Smith. Congressman, a couple of differences. Number
2 one, the product we offer today for consumers protects the
3 consumer at the same level of protection they would get January
4 31st. The difference is today it is a browser-enabled product
5 or service. The 31st of January it will be an application, much
6 simpler and easier for the consumer to use. The protection is
7 largely the same.

8 So they get this free service when they sign through for 1
9 year. At the end of the 1 year, effective January 31st of 2018,
10 it goes into the new lock product.

11 Mr. Pallone. I guess, you know, the difference other than
12 not expiring between the credit report lock that is part of
13 TrustedID Premier and the credit locking tool that will be
14 available in January, why not just extend the freeze program?

15 Mr. Smith. There is a difference between the freeze product
16 which came to pass with FACTA back in 2003, passed into law in
17 2004. That is now governed by state laws in all states and it
18 is a cumbersome process for a consumer. In many cases, some
19 states require you to mail in your request for a freeze and then
20 we must mail you a PIN, so your ability to get access to get credit
21 when you want credit is encumbered.

22 A consumer could go to a car dealer or to a bank to get a
23 credit card, forget his or her PIN on a freeze product. Have to

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1 go back home, look for the PIN, mail the PIN in. So it is a
2 cumbersome process. The lock product we are offering today is
3 a big step forward. The lock product for the 31st of January is
4 an even further step forward.

5 Mr. Pallone. My time has run out, Mr. Chairman.

6 Mr. Latta. Thank you very much. The gentleman's time has
7 expired. The chair now recognizes the chairman emeritus of the
8 full committee, the gentleman from Texas, for 5 minutes.

9 Mr. Barton. Thank you, Mr. Chairman, and since I am not a
10 member of this subcommittee, thank you for your courtesy in
11 allowing me to ask questions.

12 Mr. Smith, what is the market value of Equifax? What is your
13 company worth, or your former company?

14 Mr. Smith. Congressman, last time I checked it is somewhere
15 close to 13 billion.

16 Mr. Barton. 13 billion. I am told by my staff that this
17 current, this latest data breach was about 143 million people;
18 is that right?

19 Mr. Smith. We were informed yesterday from the company that
20 it is typical in a forensic audit there was some slight movement
21 and the numbers-adjusted press release came out from the company
22 last night it is 145.5.

23 Mr. Barton. Well, okay. I appreciate your accuracy there.

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1 But under current law you are basically required to alert each
2 of those that their account has been hacked, but there is really
3 no penalty unless there is some sort of a lawsuit filed and the
4 Federal Trade Commission or a state attorney general files a class
5 action lawsuit against your company. So you are really only
6 notify -- you are just required to notify everybody and say so
7 sorry, so sad. I understand that your company has to stay in
8 business, has to make money, but it would seem to me that you might
9 pay a little bit more attention to security if you had to pay
10 everybody whose account got hacked a couple of thousand bucks or
11 something. What would the industry reaction be to that if we
12 passed a law that did that?

13 Mr. Smith. Congressman, I understand your question. I
14 think the path that we were on when I was there and the company
15 has continued is the right path, and that is the path of allowing
16 the consumers to control the power of who and when accesses their
17 credit file going forward, taking the --

18 Mr. Barton. Well, the consumer can't control the security
19 of your system.

20 Mr. Smith. That is true, sir. But they can control --

21 Mr. Barton. And your security people knew there was a
22 problem and according to staff briefings that I have been a part
23 of they didn't act in a very expeditious fashion until the system

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1 had already been hacked. I mean you are to be commended for being
2 here. I don't think we subpoenaed you. I think you appeared
3 voluntarily which shows a commendable amount of integrity on your
4 part.

5 But I am tired of almost every month there is another security
6 breach and it is okay, we have to alert you. I checked my file
7 to see if I was one of the ones that got breached, and apparently
8 I wasn't. I don't know how I escaped, but I didn't get breached.
9 But my staff person did, and we looked at her reports last night
10 and the amount of information that is collected is way beyond what
11 you need to determine if she is creditworthy for a consumer loan.

12 Basically, her entire adult history going back 10 years
13 everywhere she has lived, her name, her date of birth, her Social
14 Security Number, her phone numbers, her addresses, her credit
15 card, student loans, security clearance applications for federal
16 employment, car insurance, even employment history of jobs that
17 she worked when she was in high school. That is not needed to
18 determine whether she is worthy of getting a \$5,000 credit card
19 loan or something and now it is all out in the netherworld of
20 whoever hacked it.

21 You know, I can't speak for anybody but myself, but I think
22 it is time at the federal level to put some teeth into this and
23 some sort of a per-account payment. And again I don't want to

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1 drive credit bureaus out of business and all of that, but we are
2 going to -- we could have this hearing every year from now on if
3 we don't do something to change the current system.

4 So I would hope that you would go back to your peers and work
5 with the committee, the chairman and the subcommittee chairman
6 and ranking member and let's figure out something to do that
7 actually gives an incentive to the industry to protect ourselves.
8 And the only way I know to do it is to some fine per account hacked
9 that is large enough that even a company that is worth \$13 billion
10 would rather protect their data and probably not collect as much
11 data than just come up here and have to appear and say we are sorry.

12 With that, Mr. Chairman, thank you for your courtesy and I
13 yield back.

14 Mr. Latta. The gentleman yields back and the chair now
15 recognizes the gentleman from New Mexico for 5 minutes.

16 Mr. Lujan. Thank you, Mr. Chairman.

17 Mr. Smith, there is a difference between a lock product and
18 a freeze, correct; those are two different things?

19 Mr. Smith. Congressman, there is a process. It is a little
20 different, but as far as the consumer and the protection that he
21 or she would get from doing one versus the other is virtually if
22 not exactly the same.

23 Mr. Lujan. Well, virtually almost exactly is not the same.

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1 Are they different?

2 Mr. Smith. It is the same.

3 Mr. Lujan. So your lock product is the same as a freeze?

4 Mr. Smith. As far as the protection --

5 Mr. Lujan. Well, we will get into that later. I appreciate
6 that clarification. Will Equifax be willing to pay for this
7 freeze at Experian and TransUnion for consumers whose information
8 was stolen?

9 Mr. Smith. You are referring to the freeze or the lock?

10 Mr. Lujan. You said they are the same so.

11 Mr. Smith. Yes. Right now we offer a free lock product as
12 you know for 1 year and then a free lifetime lock product for life
13 starting January 31st, 2018.

14 Mr. Lujan. And that also extends to Experian and
15 TransUnion?

16 Mr. Smith. No, sir. It does not.

17 Mr. Lujan. Let me repeat the question. Will Equifax be
18 willing to pay for that freeze for that lock at Experian and
19 TransUnion for consumers whose information was stolen through
20 Equifax?

21 Mr. Smith. Congressman, the company has come out with what
22 they feel is a comprehensive five different services today and
23 a lifetime lock. I would encourage, to be clear, I would

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1 encourage TransUnion and Experian to do the same. It is time we
2 changed the paradigm, give the power back to the consumer to
3 control who accesses his or her credit data. It is the right thing
4 to do.

5 Mr. Lujan. Okay. I am down to limited time, Mr. Smith. I
6 apologize. I will take that as a no that Equifax will not pay
7 for Experian and TransUnion consumers. Do you think consumers
8 should have to pay a penalty for your mistake including potential
9 identity theft, false credit accounts, fraudulent tax returns,
10 or medical identity theft, or do you commit to compensating any
11 consumers who suffer harm as a consequence of your breach?

12 Mr. Smith. We take this seriously. I have apologized. I
13 will apologize again to the American consumer. We have offered
14 a comprehensive set of products for free.

15 Mr. Lujan. Mr. Smith, will those comprehensive sets of
16 products make consumers whole?

17 Mr. Smith. It will protect them going forward.

18 Mr. Lujan. Will it make them whole, yes or no?

19 Mr. Smith. It is hard for me to tell if someone has been
20 harmed so I can't answer the question.

21 Mr. Lujan. If someone's credit has been stolen and someone
22 went and opened up a bunch of their accounts, bought furniture,
23 bought cell phones, bought a bunch of fuel, and now this consumer

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1 can't fix their history they have been harmed. In that case will
2 Equifax make that person whole?

3 Mr. Smith. Congressman, as I have said I apologize. We
4 have offered them a --

5 Mr. Lujan. Thank you very much, sir.

6 So I want to go back to the line of questioning earlier from
7 Mr. Pallone. On August 11th, in your prepared testimony it says
8 that you were aware of a large amount of consumer PII. On August
9 15th, it says in your prepared testimony a PII had been stolen,
10 it appeared likely, and that you requested a detailed briefing
11 to determine how much the company should proceed. On August 17th,
12 it says, you, I held a senior leadership meeting to receive the
13 detailed briefing on the investigation. You gave a speech also
14 on the 17th about profiting off of fraud with these new markets.
15 You shared with Mr. Pallone that you were not aware of PII being
16 stolen. What is it?

17 Mr. Smith. Congressman, on the 17th I had the full debrief
18 from Mandiant, our forensic auditors, from outside counsel, and
19 my team. I was aware on the 15th that there had been some PII
20 compromise. How much the scope --

21 Mr. Lujan. I appreciate that clarification. You were
22 aware it was stolen and you just were not aware how much?

23 Mr. Smith. I was not aware it was stolen. I was aware there

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1 was --

2 Mr. Lujan. It says in your prepared testimony that you were
3 aware, that you asked for a detailed briefing to determine how
4 the company should proceed. So you were aware that PII was stolen
5 on the 15th; is that true or not true?

6 Mr. Smith. At that time, the 17th was the detailed review
7 of when I learned about PII. And even at that time which PII,
8 was it stolen, was it not stolen, those details came to life,
9 Congressman, over the course of August.

10 Mr. Lujan. Mr. Smith, on August 15th, were you aware that
11 there was PII that was stolen or not?

12 Mr. Smith. On August 15th --

13 Mr. Lujan. Regardless of the amount were you aware of that?

14 Mr. Smith. On August 15th, I was made aware that hackers,
15 criminal hackers, had gotten into our system and had some PII
16 information.

17 Mr. Lujan. Okay. Well, we can revert to your prepared
18 testimony. The other question that I have that Ms. Schakowsky
19 was asking on, is Chief Legal Officer John Kelley still employed
20 by you, or by Equifax?

21 Mr. Smith. Yes, he is.

22 Mr. Lujan. And you were the CEO at the time that approved
23 the terms of the retirement for David Webb and Susan Mauldin. Is

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1 their classification as retired permanent or could it potentially
2 change to fired for cause like yours?

3 Mr. Smith. There is an investigation going on by the board
4 at this time.

5 Mr. Lujan. And Mr. Chairman, I know that my time has
6 collapsed here, if you will, but there is an article in WGN-TV
7 that talks about Equifax doing their own investigation into the
8 three executives that sold their stock and profited. And I guess
9 they must have a pretty good investigative team there because
10 between the press release that happened on Friday or whenever it
11 came out, and then a story on Sunday, and today we have a revelation
12 that those folks didn't know that this breach took place, I just
13 hope we get to the bottom of this.

14 And again, Mr. Chairman, I hope that we can be given assurance
15 to the committee and to the American people that this committee
16 will have a markup and a hearing with bills that we can take to
17 the floor before the holidays to give the American people
18 consumers confidence again because this is a mess. Thank you,
19 Mr. Chairman.

20 Mr. Latta. Thank you very much. The gentleman's time has
21 expired. And the chair now recognizes the gentleman from
22 Mississippi, the vice chairman of the subcommittee, for 5 minutes.

23 Mr. Harper. Thank you, Mr. Chairman.

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1 Mr. Smith, thank you for being here to testify today. In
2 your written testimony and in response to some of the chairman's
3 questions, you stated that you were informed of suspicious
4 activity on July the 31st by your chief information officer and
5 went on to discuss that. And you said, I certainly did not know
6 that personal identifying information, PII, had been stolen or
7 have any indication of the scope of the attack. Did you ask him
8 if there had been any personal identifying information that had
9 been obtained?

10 Mr. Smith. Congressman, at that time I was informed it was
11 a dispute portal document. A dispute portal document is
12 something that typically houses if the company is disputing with
13 us they paid off a utility bill he or she may take a picture of
14 the utility bill. So at that time that was the conversation.

15 Mr. Harper. Mr. Smith, not to interrupt, but my question
16 was did you ask if any PII had been accessed?

17 Mr. Smith. No, I did not.

18 Mr. Harper. Were you made aware at that point of the Apache
19 Struts patch?

20 Mr. Smith. No, sir. I was not.

21 Mr. Harper. Had you had any meetings with your chief
22 information officer or your security department about any of this
23 issue prior to July 31st?

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1 Mr. Smith. No, Congressman. I did not.

2 Mr. Harper. Had you had any meetings with them about any
3 other security information during that time from March until July
4 31st?

5 Mr. Smith. Oh yes. We would have routine meetings,
6 security reviews, IT reviews.

7 Mr. Harper. How often do you have those?

8 Mr. Smith. Common due process would be at least quarterly.

9 Mr. Harper. And why did you not have this discussion come
10 up and did you have, obviously that is more than a quarter, so
11 how many meetings did you have between that time of March the 8th
12 until July the 31st with your security team?

13 Mr. Smith. Make sure I understand your question. Why
14 didn't --

15 Mr. Harper. No. How many meetings did you have during that
16 time from March the 8th until July the 31st?

17 Mr. Smith. I don't have that information with me. If that
18 is important we can get that.

19 Mr. Harper. Well, how many do you remember? Do you
20 remember any of those?

21 Mr. Smith. So normally we would have IT reviews at least
22 quarterly and security reviews at least quarterly. And then you
23 would augment that on an as-needed basis.

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1 Mr. Harper. Well, with those meetings and those timelines
2 of March the 8th until July 31st we are covering into three
3 quarters. Not a total of 9 months, but you touch into three
4 quarters of that year. And at any point in any of that did you
5 have any information about this going on?

6 Mr. Smith. No, sir. I did not.

7 Mr. Harper. All right. In your testimony you indicate that
8 the security department ran scans in March for the vulnerability
9 but failed to identify it. Can you explain how this is possible
10 and why was there never any confirmation of anybody coming back
11 and checking to see, okay, we have this identified information,
12 there was a failure of someone on the team to identify this that
13 it was being used, that the software was even being used? Was
14 there no one coming in to verify that? Do you have any outside
15 person prior to the ones that you hired to look at this?

16 Mr. Smith. Congressman, we get notifications routinely,
17 the IT team and security team do, to apply applications. This
18 individual as I mentioned earlier did not communicate to the right
19 level to apply the patch. The follow-up was as you mentioned --

20 Mr. Harper. You said this individual?

21 Mr. Smith. Yes.

22 Mr. Harper. So you had one person responsible for this?

23 Mr. Smith. There is an owner of the patch process. There

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1 is a communication that comes out from security. It is a
2 broad-based communication. Once they receive notification from
3 a software company, or in this case DHS, they notify appropriate
4 people. Then an individual who owns the patch process cascades
5 that communication.

6 Mr. Harper. For everyone who is on your Equifax team is
7 there anything more important than protecting the PII of the
8 consumers?

9 Mr. Smith. No, sir.

10 Mr. Harper. Would you identify that as the number one
11 responsibility of the company and everybody in your company?

12 Mr. Smith. We have for years, sir, yes.

13 Mr. Harper. Okay. So it just appears, obviously, I mean
14 the job wasn't done and so we know that and we are trying to look
15 at this. And I know too there was an Equifax spokeswoman who said,
16 we have taken short-term mediation steps and continue to implement
17 and accelerate long-term security improvements as part of ongoing
18 actions to help prevent this type of incident from happening
19 again.

20 So we have 145.5 million people whose PII has been
21 compromised. How many files do you have in the system?

22 Mr. Smith. Worldwide?

23 Mr. Harper. Yes, sir.

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1 Mr. Smith. I think someone mentioned earlier there is a
2 public number out there of over 800 and some odd million consumers
3 and 100 million companies, roughly.

4 Mr. Harper. And we know this breach includes some from
5 Canada, some from the U.K. Would that be fair to say even at this
6 point?

7 Mr. Smith. Congressman, a point of clarification there,
8 there was some data that we had on, I think it is 7,000 Canadians
9 in the U.S. So the data was in the U.S., same environment. We
10 had some data on U.K. citizens also in the U.S. That piece is
11 still under investigation.

12 Mr. Harper. You know, my home state of Mississippi has three
13 million people, three million people. Almost 1.4 million files
14 have been breached in my state. If you take away people that are
15 minors who don't have a file yet, almost my entire state is going
16 to be impacted. So this is a travesty, something that was
17 preventable, we know, and so saying that we want to protect what
18 goes forward doesn't bring us a lot of comfort today. Thank you
19 and I yield back.

20 Mr. Latta. The gentleman yields back. The chair now
21 recognizes the gentleman from California for 5 minutes.

22 Mr. Cardenas. Thank you very much. I thought I prepared
23 for this committee, but I have more chicken scratch notes. I

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1 don't even know where to start.

2 Mr. Smith, welcome to Washington. Are you currently
3 employed by Equifax?

4 Mr. Smith. No, sir.

5 Mr. Cardenas. You are not. When you decided to come before
6 this committee were you specifically requested by name to come
7 to this committee by this committee or were you offered up by
8 Equifax as the representative of Equifax to come represent Equifax
9 before this committee?

10 Mr. Smith. I believe I was asked specifically to come before
11 the committee.

12 Mr. Cardenas. By Equifax or the committee?

13 Mr. Smith. My understanding is by the committee.

14 Mr. Cardenas. Okay. Okay. Apparently the committee
15 asked for the CEO at the time and at that time you were still the
16 CEO, but you are no longer the CEO. Did you inquire as to why
17 the current CEO or interim CEO didn't come before this committee?

18 Mr. Smith. I did not, but I felt personally it was my
19 obligation. The breach occurred under my watch. And as I said
20 in my written testimony and my oral testimony I ultimately take
21 that responsibility, so I thought it was important that I be here.

22 Mr. Cardenas. Thank you. I get the picture. On August
23 31st or, excuse me, on July 31st you were notified of the

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1 suspicious activity that eventually as we now know was a 145
2 million person breach? Was it July 31st, was it?

3 Mr. Smith. Yes, Congressman. It was a brief interaction
4 --

5 Mr. Cardenas. A verbal interaction?

6 Mr. Smith. With -- yes.

7 Mr. Cardenas. And then you just referenced as an answer to
8 another one of my colleagues' questions on that on August 31st
9 you received some kind of email referring to the possible breach?

10 Mr. Smith. A point of clarification, I was notified on the
11 31st of July by the chief information officer, Dave Webb, in a
12 very brief interaction that this portal seemed to have a
13 suspicious incident. There was a communication trail internally
14 between others that also referenced that I was aware of this
15 incident through my interaction with Dave Webb.

16 Mr. Cardenas. So that written trail was not directed to you,
17 you were just mentioned in that trail that you had been verbally
18 notified?

19 Mr. Smith. That is my recollection.

20 Mr. Cardenas. Okay. Mr. Chairman, is it appropriate for
21 this committee to ask for that trail of documents?

22 Mr. Latta. I would ask the -- for our counsel, but I would
23 say --

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1 Mr. Cardenas. Okay. Well, if it is appropriate, Mr.
2 Chairman, what I would like is for my office and this committee
3 to receive copies of that trail. That it has been referenced more
4 than once to some of our questions here on this committee, on this
5 congressional committee.

6 It has come to my attention that several people are no longer
7 with the corporation. You are not officially with the
8 corporation anymore. The CIO at that time is no longer the CIO
9 of the corporation, of Equifax?

10 Mr. Smith. That is correct.

11 Mr. Cardenas. And then there is another higher-up that is
12 no longer --

13 Mr. Smith. The chief security officer.

14 Mr. Cardenas. Okay, chief security officer. However, the
15 then, John Kelley, chief legal officer, was the chief legal
16 officer at that time but still is currently the chief legal
17 officer, correct?

18 Mr. Smith. That is correct.

19 Mr. Cardenas. Okay. Apparently, the chief legal officer
20 on or about, between July 29th and August 1st went to outside
21 counsel and hired outside counsel who -- correct?

22 Mr. Smith. No, Congressman. What occurred on August 2nd
23 is that the chief security officer reached out to a forensic

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1 expert, cyber expert, and outside counsel King & Spalding, and
2 she engaged them at that time.

3 Mr. Cardenas. Okay, thank you. When executives at Equifax
4 want to sell stock they need to get the chief legal officer to
5 sign off?

6 Mr. Smith. Yes, correct, Congressman. There is a protocol
7 that requires the general counsel of Equifax to approve that sale.

8 Mr. Cardenas. Okay. And John Gamble, Joseph Loughran,
9 Rodolfo Ploder, they are all high-ups with Equifax. They
10 apparently sold stock on or about August 1st or 2nd in the amount
11 of approximately 1.8 million, give or take. So they had to get
12 an okay from John Kelley before they did that, correct?

13 Mr. Smith. That is correct, sir.

14 Mr. Cardenas. Okay. And apparently they did get the okay?

15 Mr. Smith. Yes. That is my understanding.

16 Mr. Cardenas. And you were the CEO at the time that they
17 sold that stock?

18 Mr. Smith. And I have no step in that --

19 Mr. Cardenas. I get it.

20 Mr. Smith. Yes. I was --

21 Mr. Cardenas. I am referring to John, but you were the CEO
22 at the time.

23 Thank you, Mr. Chairman. Just a little bit of latitude on

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1 my time. Just a little bit, please. What I would like to request
2 of you, Mr. Chairman, and also the Ranking Member Schakowsky, that
3 we ask for a specific hearing of this committee where we get John
4 Kelley, chief legal officer, who was then the chief legal officer
5 of Equifax and who is currently still the chief legal officer,
6 hopefully when and if we get him here he will still have that title.

7 I am a bit disturbed that we are Congress holding a hearing
8 and that Equifax has before us someone who no longer works for
9 them. Thank you very much, Mr. Chairman. I hope that we can ask
10 for that hearing where we have John Kelley, the chief legal
11 officer, before us.

12 Mr. Latta. Thank you very much. The gentleman's time has
13 expired and the chair now recognizes the former chair of the full
14 committee, the gentleman from Michigan, for 5 minutes.

15 Mr. Upton. Thank you, Mr. Chairman.

16 Smith, every family watches over their financial data with
17 great concern. It impacts their daily life whether it is going
18 to get a mortgage, a loan, a car, they have to have that credit
19 score that gets them often even a job. So they view that data
20 as it relates to them as very, very private and they want it to
21 be secure.

22 Here is an Equifax credit report for somebody that I know.
23 It is 131 pages long, unbelievable in terms of the data that has

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1 been collected on this particular individual. I would guess that
2 most individuals have no clue that there is that much data that
3 has been assembled on their own personal family account.

4 Now you said earlier that the data was compromised. So a
5 question that I have to ask is does that word "compromise" include
6 the word or the term "manipulated"? Are those folks who broke
7 into that account, are they able to actually change the accurate
8 data that might be reflective of their own personal story? Can
9 that be changed?

10 Mr. Smith. Congressman, I understand your question. The
11 database was attacked by criminals that we know. The forensic
12 experts that we engaged in this case, Mandiant, has led us to
13 believe that there is no indication the data that is left behind
14 has been manipulated.

15 Mr. Upton. Now one of the things that is in this report,
16 any credit report, is you verify the income of that individual
17 to make sure that it is accurate. And as I understand it, and
18 I go again in personal experience, when one goes to get a loan
19 whether it is a mortgage or a car, often one of those little boxes
20 that you check is that you are allowing permission to look at that
21 tax return of the individual; is that not correct?

22 Regardless of self-employed income, regardless of automated
23 underwriting findings, when self-employed income is used to

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1 qualify, the following documentation is required: most recent 2
2 years of their individual tax returns with all schedules and W-2s
3 and K-1s; most recent 2 years' business returns; IRS forms 1120
4 and 1120S; 1065s in which the borrower has ownership interest at
5 25 percent or more; and a complete and signed IRS form 4506-T is
6 required for every borrower on the loan application; tax
7 transcripts validated from the IRS are required for each year
8 documented in the loan file.

9 So the question is if that is collected, is someone who is
10 a bad actor actually able to use the personal information stolen
11 from this report to then perhaps file a false tax return come the
12 first of the year?

13 Mr. Smith. Congressman, I think I understand your question,
14 a couple points of clarification. A credit report does not
15 contain employment and income information. There are many
16 lenders who will ask you as a consumer when going to get a loan
17 to validate your income and there are many means as you alluded
18 to in your readings there as to how you might do that. But the
19 credit report does not contain employment income data.

20 Number two, the unfortunate criminal hack that we referred
21 to this morning in written testimony and press release over the
22 past month or so was clear to say it did not include the credit
23 report information that you just picked up there. It was limited

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1 to nonetheless a large number, but limited to an environment we
2 call a consumer dispute portal, not the credit file itself.

3 Mr. Upton. The last question I have is how did you know,
4 I mean how -- we have had a lot of hearings, a number of them
5 classified. Breaches made into Department of Energy, utilities,
6 a whole number of different major players where hackers are coming
7 in trying to break and penetrate daily. What tripped these guys
8 up? What was the -- how did you identify in fact a breach had
9 been made? What was their mistake?

10 Mr. Smith. Congressman, there is a piece of technology
11 called a decryptor, and it was a decryptor that allowed us to see
12 some of the data. And once we saw the data that is what the start
13 of the conversation earlier in the testimony here, that is when
14 we saw the suspicious data and were able to shut off the portal
15 at the end of July.

16 Mr. Upton. Yield back, my time is expired.

17 Mr. Latta. Thank you very much. The gentleman yields back
18 and the chair now recognizes the gentlelady from Michigan for 5
19 minutes.

20 Mrs. Dingell. Thank you, Mr. Chairman.

21 Mr. Smith, I first want to say we appreciate your coming and
22 testifying today. We have spent a lot of time talking today about
23 the what, the when, the where, and the whys of this breach and

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1 I agree with all of my colleagues that we need to be expressing
2 extreme displeasure.

3 But I want to ask a few questions about where we go from here,
4 because I hope this has awoken the American consciousness about
5 privacy and credit that they need to be paying far more attention
6 to. This breach is different than most. Not only the scale of
7 those affected but the type of information taken. In the past,
8 folks usually just changed your passwords, maybe you got a new
9 credit card and that was it. You know, it was an annoyance but
10 it had no real impact on your life.

11 That is not so simple when it is your Social Security Number
12 or other personal information. You can't change your Social
13 Security Number and I can't change my mother's maiden name. This
14 data is out there forever. Clearly something needs to be done.
15 We can all sit here and talk about what went wrong, but we are
16 doing the public a disservice to not at least begin the discussion
17 on how to improve data security. That is why I am a proud
18 co-sponsor of Representative Schakowsky and Ranking Member
19 Pallone's bill. It is a good first step that needs to be given
20 serious consideration. And I am also introducing the Data
21 Protection of 2017. Whatever path we choose going forward, it
22 is important that we take action on the topic and that all American
23 consumers pay attention.

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1 Now I would like to ask a few questions. Nobody has asked
2 this question yet, so just a quick yes or no. Have you or anyone
3 on your team seen signs that the attackers were backed by a nation
4 state?

5 Mr. Smith. Congresswoman, we have engaged the FBI. At this
6 point that is all I will say.

7 Mrs. Dingell. I don't think it is all the same, but thank
8 you. After your security department blocked the suspicious
9 traffic you mentioned in your testimony, did anyone from your team
10 or outside companies venture beyond the parameter of your network
11 to attempt to locate where they came from?

12 Mr. Smith. Congresswoman, yes. We have the ability to
13 track the IP address of the criminals, but as you know finding
14 the location where the IP address does not necessarily tell you
15 where they are from. It is easy to set up IP addresses anywhere
16 in the world.

17 Mrs. Dingell. I think we all care about this, but I want
18 to move to this other topic. I share your belief that placing
19 control of access to consumers' credit data should be placed in
20 the hands of the consumer, but most people have no idea that
21 Equifax was even holding their data. I unfortunately learned a
22 long time ago because this isn't the first data theft and Doris
23 and I were part of something else where they got our Social

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1 Security Numbers and mother's maiden names.

2 It is one thing to take steps to mitigate damages after a
3 breach has occurred, but going forward we must give consumers the
4 chance to protect themselves before a breach happens. Do you
5 believe that consumers can take reasonable steps to secure their
6 identity and information if they don't even know who has it?

7 Mr. Smith. Congresswoman, I think we can help. I think we
8 can help by the announcement of this offering to all Americans
9 the ability to lock and unlock your credit file for life for free.
10 There needs to be a greater awareness, I understand your point
11 clearly. And I think by making this available to all Americans
12 is one step in doing that.

13 Mrs. Dingell. So I was just actually even educating my
14 colleagues up here about Credit Karma and they were stunned by
15 how easy it was with two little factoids to suddenly unleash the
16 amount of money they had in every one of the credit card companies,
17 what any data inquiries have been, and all of the different
18 factors. I have a couple -- and I think most people don't
19 understand that it is not just you, but Experian and TransUnion
20 who are also collecting this data. Why do consumers have
21 to pay you to access their credit report? Why should that data
22 not be free?

23 Mr. Smith. Congresswoman, the consumer has the ability to

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1 access the credit report for free from each of the three credit
2 reporting agencies once a year, and you combine that with the
3 ability to lock your credit file for life for free again is a step
4 forward.

5 Mrs. Dingell. Well, I am running out time. But like my
6 colleague over here, when you find mistakes, which a number of
7 us have and we are luckier than 99 and 9/10s, it is very difficult
8 to fix and when you do fix it you still have to pay. I think we
9 need a longer debate about who owns this data and how we educate
10 the American people. Thank you, Mr. Chairman.

11 Mr. Latta. Thank you very much. The gentlelady's time has
12 expired and the chair now recognizes the gentleman from New Jersey
13 for 5 minutes.

14 Mr. Lance. Thank you, Mr. Chairman.

15 Good morning to you, Mr. Smith. Criminals perpetrated this
16 fraud. Is it possible that these criminals are from another
17 country?

18 Mr. Smith. Congressman, it is possible but at this time --

19 Mr. Lance. It is possible. Number two, is it possible it
20 is the government of another country?

21 Mr. Smith. As I mentioned to the congresswoman a few minutes
22 ago, we have engaged the FBI they will make that conclusion.

23 Mr. Lance. Do you have any suspicions in that regard either

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1 persons from other countries or the government of another country?

2 Mr. Smith. Congressman, I will defer that. We have the FBI
3 involved.

4 Mr. Lance. Yes, I know we have the FBI involved. Do you
5 have an opinion to the two questions I have just asked?

6 Mr. Smith. I have no opinion.

7 Mr. Lance. You have no opinion. The stock that was sold
8 by your colleagues, Mr. Gamble and Mr. Loughran -- I hope I am
9 pronouncing that right -- Mr. Ploder, as I understand it that stock
10 was sold on August 2nd. Is it usual that executives of a mature
11 company, not a company that has just come onto an Exchange, is
12 it usual that the significant amounts of stock are sold?

13 Mr. Smith. Congressman, a few points here of clarification.
14 The stock was sold on the 1st and the 2nd. So --

15 Mr. Lance. Yes, I said the 2nd. Yes.

16 Mr. Smith. The 1st was, I think, the first day it was sold.

17 Mr. Lance. Yes.

18 Mr. Smith. It is not unusual for stock to be sold at the
19 end of a quarter. After we have our earnings call the window opens
20 up. We encourage those who are going to sell, sells early in the
21 window. The window is open for about 30 days. They sell as early
22 in the window as possible and that is what occurred here.

23 Mr. Lance. You believe that this stock was sold merely as

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1 a matter of course as would be true in any other quarter?

2 Mr. Smith. Yes.

3 Mr. Lance. You do not believe it was based upon knowledge
4 known by these gentleman related to the breach?

5 Mr. Smith. Congressman, I have known these individuals for,
6 some of them up to 12 years. They are honorable men. They are
7 men of integrity. They followed due process. They went through
8 the clearance process through the general counsel. I have no
9 indication that they had any knowledge of the breach at the time
10 they made the sale.

11 Mr. Lance. Did you have knowledge of the breach at that
12 time?

13 Mr. Smith. I did not, sir.

14 Mr. Lance. Weren't you warned well in advance of this that
15 there was suspicious activity?

16 Mr. Smith. I was notified on July 31st in a conversation
17 with the chief information officer that there was suspicious
18 activity detected in an environment called the web portal for
19 consumer dispute. No indication of a breach.

20 Mr. Lance. That was prior to the sale of the stock; is that
21 accurate?

22 Mr. Smith. The 31st of July, but there is no indication of
23 a breach at that time.

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1 Mr. Lance. From my perspective as a layman the difference
2 between a breach and suspicious activity is not one that I believe
3 is particularly relevant. A breach might have technical
4 connotations to it, but certainly you were aware of untoward
5 activity prior to that date; is that accurate?

6 Mr. Smith. No, Congressman, it is not. On the 31st we had
7 no indication that documents were taken out of the system, what
8 information was included. It was very early days. It took the
9 forensic experts as I mentioned earlier from then until the 24th
10 to start to develop a clear picture and that picture still changed
11 the 24th because we heard just last night the additional
12 announcement.

13 Mr. Lance. Many calls have been received by Equifax at your
14 call center since September 7th. Do you know how many calls have
15 been dropped or missed due to staffing shortages or other issues?

16 Mr. Smith. Congressman, I don't have the exact number, but
17 as I said in my opening testimony I apologize for that startup.
18 It was overwhelming in volume, overwhelming. I think I mentioned
19 over 400 million U.S. consumers coming to a website in 3 weeks.
20 We went live in a very short period of time with call centers.
21 Our two larger call centers were taken down in the first few days
22 by Hurricane Irma. The team is committed and was committed to
23 make the experience better for the consumer and I am told that

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1 each and every day that the process is getting better.

2 Mr. Lance. On August 22nd, you notified a lead director,
3 Mr. Fiedler -- I hope I am pronouncing that right -- of the data
4 breach, and the full board was informed later, I believe 2 days
5 later. Why was there nearly a week between August 17th and August
6 22nd before members of the board were alerted?

7 Mr. Smith. Congressman, the picture was very fluid.

8 Mr. Lance. Fluid, fluid. What does that mean?

9 Mr. Smith. We were learning new pieces of information each
10 and every day. As soon as we thought we had information that was
11 of value to the board I reached out to the lead director as you
12 said, Mark Fiedler, on the 22nd, convened a board meeting on the
13 24th. Convened a second board meeting on the 25th and had
14 subsequent board meetings routinely, if not daily in many cases,
15 through as recently as last week.

16 Mr. Lance. Thank you. And my time has expired, Mr.
17 Chairman.

18 Mr. Latta. Thank you very much. The gentleman's time has
19 expired and the chair now recognizes the gentlelady from
20 California for 5 minutes.

21 Ms. Matsui. Thank you, Mr. Chairman, and thank you, Mr.
22 Smith, for appearing here today.

23 As many of my colleagues have highlighted, the events that

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1 led to this data breach and the actions that Equifax management
2 took after the fact are very upsetting. It seems that many
3 Americans are in a place of breach fatigue. But this latest event
4 that potentially impacts nearly half of all Americans should light
5 a fire under every member here and I think you have noticed that
6 it has lit a fire.

7 We cannot follow the same script after the next inevitable
8 data breach. That is one of the reasons why I am also supporting
9 Congresswoman Schakowsky's Secure and Protect Americans' Data
10 Act. And it is not as if this type of legislation is
11 unprecedented. Forty-eight states have implemented laws that
12 require consumers to be notified of security breaches.

13 And I am pleased that my home state of California was the
14 first state to pass this kind of notification law in 2002. Today,
15 if California residents' personal data is hacked, state law
16 requires that they are notified in the most expedient time
17 possible and without unreasonable delay. We must act to ensure
18 that all Americans are subject to protections like this at the
19 federal level.

20 Mr. Smith, because Equifax without doubt has the information
21 of many California residents, the company is subject to the
22 California data breach notification law. Can you please describe
23 to me how Equifax complied with the state law? Were California

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1 residents notified of the breach as required?

2 Mr. Smith. Congresswoman, I don't have the specific
3 knowledge of the California law. I can tell you though that we
4 worked as a team including with our counsel to help us ensure we
5 were doing what was right for the consumer in the most expedient
6 manner as possible. So we are aware of the requirements of the
7 specific state laws, I just don't have the specific knowledge as
8 it relates to the State of California.

9 Ms. Matsui. So you also don't know, because the law also
10 requires Equifax to submit a copy of the breach notification to
11 the California attorney general, you don't know whether this was
12 done?

13 Mr. Smith. Congresswoman, I do not. But we can have our
14 team follow up through staff if that would be helpful.

15 Ms. Matsui. Okay. In the context of this breach, if data
16 that you hold is about me do I own it? Do I own my data?

17 Mr. Smith. Could you please repeat the question?

18 Ms. Matsui. In the context of this breach, if the data that
19 you hold is about me do I own it?

20 Mr. Smith. Congresswoman, we are part of a federally
21 regulated ecosystem that has been around for a long time and it
22 is there to help consumers get access with their consent to credit
23 when they want access to credit.

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1 Ms. Matsui. Well, can you explain what makes data about me
2 mine compared to what would make it someone else's?

3 Mr. Smith. The intent, if you will, of the solution we have
4 recommended, we implement, and are going live with in January of
5 2018, is in fact to give you as the consumer through this lock
6 product for life, for free, the ability to control who accesses
7 your personal information and who does not.

8 Ms. Matsui. So at that point in time you believe that I own,
9 I can say I own my data; is that right?

10 Mr. Smith. You will have the ability to control who accesses
11 and when they access your data.

12 Ms. Matsui. Okay. Could I ask you some further questions
13 following along to what others have asked about, credit locks and
14 credit freezes? Now limiting access to credit even for a short
15 amount of time can have real financial consequences especially
16 for low-income populations. How quickly will a file be able to
17 be locked and unlocked and how will you ensure that speed?

18 Mr. Smith. Congresswoman, thank you for that question.
19 That is a great advantage of the product we are offering for free
20 versus the freeze, which again came about in 2004 out of
21 regulation, and there states dictate how quickly you can access
22 to freezing and unfreezing your file and oftentimes that can take
23 days if not weeks because we are mailing data back and forth to

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1 the consumer.

2 In this case, the intent is in January of 2018, on your
3 iPhone, you can freeze and unfreeze your file instantly at the
4 point you want it locked and unlocked.

5 Ms. Matsui. So, and I recall that one of my colleagues asked
6 whether a credit lock is the same thing as a credit freeze and
7 you said it was; is that correct?

8 Mr. Smith. As far as protection to the consumer,
9 Congresswoman, it is. As far as ability to lock or unlock and
10 freeze or unfreeze, a lock is far more user-friendly.

11 Ms. Matsui. Okay. So you currently offer a credit lock
12 product now and you plan to offer this other one for free starting
13 the end of January. And can you describe for me why you consider
14 that -- would a lock be more economical for you or would a freeze
15 be? I am trying to get the sense of the difference, because I
16 think there is a difference here.

17 Mr. Smith. Yes, if I may one more time to try to clarify.
18 As far as protection they are the same. The lock you are getting
19 that we offered to the consumers on September 7th gives you the
20 same level of security you would get from a freeze or from the
21 product that is going out in January. The difference is today's
22 lock is browser-enabled; January's lock will be an app on an
23 iPhone. And secondly, it will be instant on and instant off

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1 versus the freeze or today's lock.

2 Ms. Matsui. Okay. I have more questions but I know I have
3 run out of time. Thank you.

4 Mr. Latta. Thank you very much. The gentleman from
5 Illinois is recognized for 5 minutes.

6 Mr. Kinzinger. Thank you, Mr. Chairman, and sir, thank you
7 for being here today.

8 This is obviously a huge issue, 145-1/2 million people
9 affected by this data breach. It is nearly half of all Americans.
10 That is a failure on multiple levels. It is a failure to keep
11 consumer personal information secure. It is a failure to
12 appropriately respond to a breach and a failure to notify the
13 public and much more. My constituents and the American people
14 need not just answers but they want assurances that they are not
15 going to be financially ruined by this.

16 I do want to make a quick point. Mr. Lujan asked you if the
17 people that would be harmed by this would be made whole and you
18 made a statement. And I understand that there is probably some
19 legal and technical reasons for this, but you said I don't know
20 if consumers were harmed. I just want to make the point that I
21 think that idea that people are not harmed in this is ludicrous.
22 Of course they are going to be harmed. Even if there is no
23 financial harm that comes to them just even having this

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1 information exposed is a massive deal, but I feel that we are going
2 to see bigger repercussions from that.

3 But let me say now, Mr. Smith, I was surprised to find out
4 that Equifax initially included a requirement that consumers
5 consent to a mandatory arbitration clause. Why did that happen?
6 Why was that at the beginning part of the rollout?

7 Mr. Smith. Congressman, thank you for that question and I
8 want to clarify. The product offering that went live or the
9 service offering on the 7th, it was never intended to have that
10 arbitration clause apply to this breach. It was a standard
11 boilerplate clause as a part of a product. As soon as we learned
12 that that boilerplate term was applied to this free service, I
13 think it was within 24 hours we removed that and tried to clarify
14 that. That was a mistake and one of the mistakes I alluded to
15 in my oral testimony about the remediation product on September
16 7th.

17 Mr. Kinzinger. So does Equifax require consumers to consent
18 to arbitration with respect to any of its other products and if
19 not is that information prominently disclosed to the consumer?

20 Mr. Smith. Not as it relates to the breach, Congressman.

21 Mr. Kinzinger. Well, the question is what about any other
22 products do you require consent to arbitration?

23 Mr. Smith. Some of the consumer products we have there is

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1 an arbitration clause in there. It is a standard clause.

2 Mr. Kinzinger. What is the reason for that?

3 Mr. Smith. I don't have that answer other than it is a
4 standard clause.

5 Mr. Kinzinger. If you could get that to me that would be
6 good. Your press release indicates that the company has found
7 no evidence of unauthorized activity on Equifax's core consumer
8 or commercial credit reporting databases. What are Equifax's
9 core consumer and commercial credit reporting databases and how
10 are they distinct from the databases containing personal
11 information that was subject to the unauthorized theft?

12 Mr. Smith. Congressman, the area that was impacted here was
13 a consumer dispute portal where the consumers would come in and
14 they would dispute activity with us. As separate then a
15 congressman had talked about, had the credit file in their hand.
16 That is separate from the core credit data that consumers have
17 in our database.

18 Mr. Kinzinger. So in essence, were there 145.5 million
19 people that at one point had disputed credit issues then, if that
20 was the --

21 Mr. Smith. It is a portal they used and they could have been
22 in that portal for multiple reasons. And we also by regulation
23 have got to keep data for extended periods of time, in some cases

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1 7-plus years. So it is a lot of data for a lot years, but it is
2 outside the core credit file itself.

3 Mr. Kinzinger. Which company, and I guess you kind of went
4 into this, which company databases were accessed, but why wouldn't
5 you consider that then -- maybe this is a change now after this
6 -- why wouldn't you consider that to be part of the core consumer
7 and commercial credit reporting databases?

8 Mr. Smith. It is just the way we define it. The credit file
9 itself is housed and managed in a completely separate environment
10 from a database that consumers can come into directly. The core
11 credit file itself is largely accessed by corporations, companies
12 that we deal with versus consumers.

13 Mr. Kinzinger. Okay. So I just want to make sure and you
14 will have to forgive me, I am not an IT expert. So to get 145
15 million people's records in only the dispute database, I guess
16 I am trying to figure out if -- you didn't really answer the
17 question in terms of were there 145 million people that have
18 disputed at some point in time, half of Americans, or was there
19 another entry somehow through that that went into other
20 information? Maybe I just don't understand the IT part of this.

21 Mr. Smith. The only entry was through the consumer dispute
22 portal and that is a completely separate environment from the
23 credit file itself. We also, as you might recall, house a lot

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1 of data for small businesses in America and that environment which
2 is part of the definition that you were alluding to was not
3 compromised either.

4 Mr. Kinzinger. Okay. And lastly, are your core consumer
5 or commercial credit reporting databases encrypted?

6 Mr. Smith. We use many techniques to protect data:
7 encryption, tokenization, masking, encryption in motion,
8 encrypting at rest. To be very specific this data was not
9 encrypted at rest.

10 Mr. Kinzinger. Okay, so this wasn't but your core is?

11 Mr. Smith. Some, not all. Some data is encrypted, some is
12 tokenized. Some it is in motion, some is masked. There is
13 varying levels of security techniques that the team deploys in
14 different environments around the business.

15 Mr. Kinzinger. Okay, thank you, sir. I yield back.

16 Mr. Latta. Thank you very much. The gentleman yields back.

17 The chair now recognizes the gentleman from California for 5
18 minutes.

19 Mr. McNerney. I thank the chair for holding this hearing.

20 Mr. Smith, it is my understanding that the compromised
21 information was due to an unpatched vulnerability in the web
22 application framework Apache Struts? Besides the company's
23 online consumer dispute resolution portal, does Equifax have any

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1 other portals that use Apache Struts?

2 Mr. Smith. No, sir. This was the environment that had
3 deployed Struts.

4 Mr. McNerney. All right. That was a simple answer. You
5 might need to restart my time. In addition to Equifax's credit
6 monitoring and reporting services, the company has Equifax for
7 business offerings and in this capacity operates as a data broker.
8 As a part of these services the company collects large amounts
9 of data about consumers without consumers having any knowledge
10 of this happening. Was this information compromised in the
11 breach?

12 Mr. Smith. I think I understand your question, but could
13 you repeat that one more time, please, so I get it right?

14 Mr. McNerney. Okay. Well, you are familiar with the
15 Equifax for business offerings?

16 Mr. Smith. Yes. We do have product offerings and solutions
17 for small businesses, medium sized businesses and large business
18 across the country, correct.

19 Mr. McNerney. Right. Was information from Equifax for
20 business also compromised in the breach?

21 Mr. Smith. No, Congressman, it was not. It goes back to
22 the question earlier on as part of our, what we call our core credit
23 data. It was not compromised.

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1 Mr. McNerney. Well, in your testimony you noted that
2 "throughout my tenure as CEO of Equifax we took data security and
3 privacy extremely seriously and devoted substantial resources to
4 it." Could you tell us about what investments Equifax made in
5 cybersecurity during your tenure?

6 Mr. Smith. Yes, Congressman, I can. When I came to the
7 company 12 years ago we had virtually no focus on cybersecurity.
8 At that time cybersecurity was not as sophisticated as it today.
9 We have gone from the environment to a team now of over 225
10 professionals focusing each and every day on security around the
11 world.

12 Mr. McNerney. So what timeframe is that?

13 Mr. Smith. That was from the time I started 12 years ago.

14 Mr. McNerney. So you say that you hired up to 250 personnel
15 to fix the issue?

16 Mr. Smith. I did not, the team did. I didn't hire them,
17 sir, but we now have a staff of 225 cyber or security experts around
18 the world. We made substantial investments over that timeframe.
19 In the last 3 years alone we have invested approaching a quarter
20 billion dollars in security. There is an IBM benchmark. It says
21 financial service companies who tend to be best in class spend
22 somewhere between 10 and 14 percent of their IT budget in security.

23 Mr. McNerney. Well, they were notified of the -- I mean the

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1 company was notified of the vulnerability in the Apache Struts
2 system days before the attack occurred.

3 Mr. Smith. Yes. We were notified by Department of Homeland
4 Security in March of 2017.

5 Mr. McNerney. And the attack occurred after the
6 notification?

7 Mr. Smith. Yes.

8 Mr. McNerney. So was there a human failure? I mean how
9 could 250 professionals that are designed and hired for that
10 purpose let a breach like that happen after they were notified?

11 Mr. Smith. Yes, Congressman. What happened and it was in
12 my oral testimony was the notification comes out. We had a
13 communication process in place. I described it as a human error
14 where an individual did not ensure communication got to the right
15 person to manually patch the application. That was subsequently
16 followed by a technological error where a piece of equipment we
17 use which scans the environment looking for that vulnerability
18 did not find it.

19 Mr. McNerney. You mentioned that in your opening testimony.
20 That seems like a lack of competence or a professional error of
21 some kind. What did you call it?

22 Mr. Smith. I described it as a human error and a technology
23 error, and I apologize for that but that is what happened.

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1 Mr. McNerney. Okay, moving on. Do you believe that the FTC
2 has an important role in protecting consumers from future data
3 breaches? How much of a role should the FTC be playing at this
4 point given what has happened?

5 Mr. Smith. I think there is a role for the business to do
6 more, industry to do more. We talked about earlier this concept
7 of offering the consumer the ability to control their data and
8 lock and unlock when he or she so choose. And if there is
9 particular legislation that arises out of this horrific breach,
10 I am sure you would find the management at Equifax and the industry
11 willing to work and cooperate with the regulators.

12 Mr. McNerney. Well, the reason I am asking is the Federal
13 Trade Commission is an enforcement body, but it doesn't have any
14 rulemaking authority. And do you think the FTC should have
15 rulemaking authority? Do you think it would have made a
16 difference or do you think it will make a difference in the future
17 or do you have an opinion?

18 Mr. Smith. I have no opinion.

19 Mr. McNerney. Well, my final question then is how long will
20 individuals be vulnerable to identity theft problems due to this
21 breach?

22 Mr. Smith. We, Congressman, offered five different
23 individual services, as you may or may not be aware, effective

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1 September. One is the ability to monitor your credit files from
2 all three of us for free, another is to lock your file, another
3 is a dark web scanning product.

4 Mr. McNerney. That doesn't answer my question. How long
5 are we going to be vulnerable? How long are we going to -- our
6 Social Security Numbers are out there. This is forever, right?

7 Mr. Smith. Unfortunately, the number of breaches around a
8 Social Security Number has been on the rise as you know, and many
9 even this year. So there is another thought and that is, do we
10 think about how secure, really, is an SSN and is that the best
11 identifier for consumers going forward?

12 Mr. McNerney. Thank you, Mr. Chairman.

13 Mr. Latta. Thank you very much. The gentleman's time has
14 expired and the chair now recognizes the gentleman from Kentucky
15 for 5 minutes.

16 Mr. Guthrie. Thank you, Mr. Chairman.

17 Thank you for being here, Mr. Smith. We appreciate you being
18 here to testify. And there is a medical hearing going on
19 upstairs, so I have been back and forth so I will try not to double
20 a question. But when I was here earlier and a lot of people have
21 asked, a lot of us wondered, you know, July 31st was the suspicious
22 activity and then it seemed the activity or the notice in the board
23 was about 3 weeks later, August 24th and 25th.

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1 And so not to repeat before, I heard you say that it was
2 suspicious activity and therefore you didn't realize it was a
3 breach and then the action took place 3 weeks later when you did.
4 Looking back now, knowing how colossal this is and how big it is,
5 would you have done different? So from July 31st to August the
6 24th, what would you have done different that didn't happen or
7 Equifax didn't do?

8 Mr. Smith. Congressman, that is an appropriate question.
9 To be honest, time for reflection will come. There has been no
10 time for reflection. This has been a team of people including
11 myself working around the clock for the last 6, 8 weeks trying
12 to understand the forensics, trying as best we could to stand up
13 an environment to offer consumers services to protect themselves.
14 There will be an opportunity where I will have the time to catch
15 my breath and reflect. I have not had a chance to do so now.

16 Mr. Guthrie. Thank you and I appreciate that. Well, 1.9
17 million Kentuckians were exposed in this hack. And one of the
18 questions we have about the process that Equifax underwent to
19 determine, to help people determine that and one was setting up
20 a new website, not just a portal within your website, for consumers
21 to visit. And was that an appropriate response? I know there
22 was some issues with getting on to the website. And the question
23 is were you part of the deliberation and why did you choose to

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1 set up a new website that seemed to cause issues as opposed to
2 just doing a portal on your current website?

3 Mr. Smith. Congressman, good question. It was strictly
4 due to the sheer volume of incoming visitors that we had expected.
5 The traditional website that we would use to interact with
6 consumers services a total of maybe 7- to 800,000 consumers at
7 any one given point in time over a period of time. I mentioned
8 in my opening comments earlier, this new microsite as we call it
9 that we set up had a capacity to surge to much higher levels. We
10 had some 400-, and I think it was, -20 million consumers come to
11 visit us in the first 3 weeks on that website. Our traditional
12 Equifax website could not have handled that volume on day 1.

13 Mr. Guthrie. Okay. According to reports, many consumers
14 weren't able to determine with certainty if their information was
15 breached. So why was Equifax unable to provide clarity or
16 certainty on whether individuals' information was breached?

17 Mr. Smith. When you went to the website, Congressman, and
18 you typed in six of your nine digits of your Social Security
19 Number, if it was likely that you were breached it would say
20 something along the lines of it looks like you may have been
21 compromised or breached as opposed to it is definite that you have
22 been breached, and that is because it was six digits versus nine.
23 The point is we offer this service, these five different services

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1 to every American. It didn't matter if you were compromised or
2 not, every American was offered the same services.

3 Mr. Guthrie. So and just going forward, because we have to
4 also do an analysis and so what we are going to do as a legislative
5 body going forward to protect the American people. And what your
6 business does and what people in your business do are important
7 is when you can sit down at a car dealer, and I think you kind
8 of mentioned earlier, walk away with a car that afternoon because
9 somebody can check that you are creditworthy, and so having those
10 types of services are available.

11 So what steps is Equifax doing to rebuild the confidence?
12 People aren't confident that their information is flowing out
13 there. But the ability to be able to access credit almost
14 immediately if you have the proper credit is something that your
15 services provide, but the risk is having all that information in
16 one place plus the convenience of what your type of business
17 offers. So what you doing to rebuild or how can people be
18 confident that this can go forward?

19 Mr. Smith. Congressman, that is a really good question.
20 And we are a 118 year old company and we have done a lot of great
21 things for consumers over those 118 years. We take being a
22 trusted steward seriously. So step one is to make sure we think
23 more holistically, broadly, about steps we can and have taken to

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1 make sure we are more secure today than we were at the time of
2 the breach.

3 Second thing we could do is offer these services to consumers
4 we offered on September 7th to make sure they are protected. And
5 third is to launch this whole paradigm shift effective January
6 of next year which is to put the power of the control of the
7 consumer credit in the consumers' hands not our hands.

8 Mr. Guthrie. Thank you, and that would be helpful. So I
9 appreciate that and now my time is expired. I yield back.

10 Mr. Smith. Thank you.

11 Mr. Latta. Thank you very much. The gentleman's time has
12 expired. And pursuant to committee rules we will go with the
13 members on the subcommittee by order of appearance and then after
14 that the non-subcommittee members. So the chair would recognize
15 the gentleman from Florida for 5 minutes.

16 Mr. Bilirakis. Thank you, Mr. Chairman. I appreciate it.

17 Mr. Smith, one of my constituents accessed Equifax's
18 website, equifaxsecurity2017.com., to determine if they were
19 affected. They informed me that whether you submit your own
20 identifying information or whether you submit a random name and
21 Social Security Number you get the same message that you may be
22 affected. What course of action should consumers who haven't
23 received correspondence yet as to whether they are affected or

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1 not, what is the course of action? And if they were affected what
2 are the next steps?

3 Mr. Smith. Congressman, it is my understanding that those
4 who have gone online to register and that were not notified
5 immediately that that backlog is completely now drained, if you
6 will. So if you are trying to sign up for the service, if I
7 understand your question correctly, you have now been notified.

8 Mr. Bilirakis. Okay. I understand that Equifax currently
9 is waiving fees to freeze and unfreeze your credit. How long is
10 that exemption going to stay in place because it is so very
11 important?

12 Mr. Smith. It is important. Congressman, we have
13 announced on September 7th the ability to lock and unlock your
14 file at Equifax for free for 1 year from the time you sign up.
15 We have also announced on a product we have been working on for
16 quite some time, effective in January of 2018, the ability to lock
17 and unlock your file with Equifax for life for free. That will
18 be the next generation of the lock that we offered in September.

19 Mr. Bilirakis. Okay. As CEO, what level of involvement did
20 you have with regard to the data security and data protection?

21 Mr. Smith. Yes. The --

22 Mr. Bilirakis. Obviously, the buck stops with you. I
23 understand that. But what level of involvement did you have?

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1 Mr. Smith. So data security reported to a direct report of
2 mine, my general counsel, and I would have active involvement with
3 my general counsel, with the head of security, routinely
4 throughout the year.

5 Mr. Bilirakis. Okay. What responsibilities did Ms.
6 Mauldin, again the chief security officer at Equifax at the time
7 of the breach, have with respect to data security, data
8 protection, and data breach notification? What were her
9 responsibilities?

10 Mr. Smith. Those were core to her responsibilities. She
11 was the head of cybersecurity and physical security in all 24
12 countries that we operate.

13 Mr. Bilirakis. How many briefings did you have with Ms.
14 Mauldin between March 8th and July 29th of 2017? How many
15 briefings?

16 Mr. Smith. I don't recall. We had as a congressman asked
17 earlier, there are routine meetings which we go through security
18 strategy, security quarterly reviews, investment decisions
19 required for security, but the actual number of times in that
20 timeframe I don't recall.

21 Mr. Bilirakis. Okay, so say a half dozen, a dozen?

22 Mr. Smith. That would be a guess, I don't know.

23 Mr. Bilirakis. It would be a guess. More than three?

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1 Mr. Smith. It if is important to you, Congressman, we can
2 find that information.

3 Mr. Bilirakis. Give me that information, I appreciate that.
4 What responsibilities did Mr. Webb, the chief information officer
5 at Equifax at the time of the breach, have with respect to data
6 security, data protection, and data breach notification?

7 Mr. Smith. Directly, none, sir. He was expected obviously
8 as the head of technology to work closely with the head of
9 security, but the security function was a separate function. But
10 you can't do security without IT, you can't do IT without security.

11 Mr. Bilirakis. How many briefings did you have with Mr.
12 Webb, again between March the 8th and July 27th of 2016?

13 Mr. Smith. If I may just clarify again, on March 8th is when
14 the CERT came out saying there was a vulnerability in Apache
15 Struts. I was not even notified to put it in perspective that
16 there was an incident and didn't know what the incident was until
17 July 31st. So the number of meetings I would have with Dave Webb
18 would not have been related to this incident.

19 Mr. Bilirakis. All right, Mr. Chairman. Thank you, I yield
20 back.

21 Mr. Latta. Thank you very much. The gentleman yields back
22 and the chair recognizes the gentleman from Indiana for 5 minutes.

23 Mr. Bucshon. Thank you, Mr. Chairman. Thank you for being

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1 here. And again I was at the Health Subcommittee hearing too,
2 so I am back and forth. Sorry about that.

3 But is it possible for people who never signed up or used
4 Equifax directly could have been impacted by the breach?

5 Mr. Smith. Yes, Congressman.

6 Mr. Bucshon. Okay. So how does Equifax get the information
7 on people who have never directly associated with Equifax at all?
8 I mean I am not familiar with that.

9 Mr. Smith. Yes. We get it from banks, telecommunications
10 companies, credit card issuers, so on and so forth.

11 Mr. Bucshon. So just like, you know, when we go to apply
12 for a loan they send you the information because they want to get
13 a data, they want to get the information on my credit rating, for
14 example?

15 Mr. Smith. Correct. As I define it we are part of the
16 federally regulated ecosystem that enables banks to loan money
17 to consumers.

18 Mr. Bucshon. Right. So it is up to the banks at that point
19 to notify the individual which credit agencies they are utilizing
20 to assess their credit risk, or is it up to the credit agencies?

21 Mr. Smith. Traditionally, the contributors of the data in
22 that case, Congressman, the banks, would give their data to all
23 three. That is the benefit of the system is you get a holistic

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1 view of an individual's credit risk.

2 Mr. Bucshon. Yes, and my point is I guess because a lot of
3 people I talk to back in Indiana, southern Indiana, have no idea
4 who Equifax is, right. And many of those people have applied for
5 home loans and other things and matter of fact probably at some
6 point you have their information, but they just, they may or may
7 not have been notified who had sent the information to them,
8 probably the bank or other agency.

9 And that is just, you know, that is something I think that
10 is also maybe an issue, you know, that people don't understand
11 or have not been told who is being used to assess their credit
12 risk, and hence something like this happens they have no idea
13 whether or not their information has been compromised.

14 Mr. Smith. I understand your point.

15 Mr. Bucshon. Yes. I also have a lot of constituents in
16 rural and lower income areas that may or may not have access to
17 the internet and WiFi. The penetrance of that it is interesting
18 depending on where you are of people who actually have WiFi and
19 the internet is not as high as you might think in rural America,
20 but some of those people still have probably applied for loans
21 and other things where their information could have been acquired
22 by your company.

23 How are you notifying all of those people other than, you

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1 know, saying that you have a website? And you may have already
2 answered that and I apologize if you have. But that is important
3 because again the penetrance of people having access to the
4 internet may be not as high as you think when you come out to like
5 rural Indiana and other areas.

6 Mr. Smith. Yes. Coming from Indiana I understand rural
7 Indiana.

8 Mr. Bucshon. There you go.

9 Mr. Smith. Congressman, we have set up the website that you
10 mentioned at a press release across the country. We have also
11 set up for those that don't have access to the web, to the internet,
12 call centers. We have staffed up. We have went from some 500
13 call center agents to over 2,700. So --

14 Mr. Bucshon. I guess that is again, I understand the call
15 centers and all that. I knew you had done that. But I guess that
16 is again making the assumption that people have watched the news
17 and know that there has been a breach and that they are proactive
18 in trying to find out whether they have been involved or not.

19 Is there any, other than a passive way for them to find out,
20 is there anything proactive from Equifax's point of view that
21 might notify them that their data may have been compromised?

22 Mr. Bucshon. Well, in many states there is local
23 requirements, state requirements to take out advertisements in

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1 newspapers and so forth. We follow those. One indication I did
2 mention earlier, it may or may not help those in rural Indiana,
3 but the visibility this has gotten is extremely high. I mentioned
4 400 and some odd million consumers had come to our website, so
5 it has gotten the press.

6 Mr. Bucshon. And probably after today it will be, maybe
7 more people will know. So thank you for answering those
8 questions. Like I said, my main concern is that my constituents
9 understand whether or not their data has been compromised and then
10 what are their options going forward. You have outlined most of
11 those things today. I am not going to ask you that again.

12 But I do think it is important to recognize that you know,
13 although they are important, passive ways to have people become
14 aware of their data may be compromised is one approach, but also
15 actively informing people proactively might very well be
16 important in certain areas of the country. Thank you, I yield
17 back.

18 Mr. Latta. The chair now recognizes the gentleman from
19 Texas for 5 minutes.

20 Mr. Green. Thank you, Mr. Chairman, and I apologize. We
21 have a Health Subcommittee upstairs and I appreciate it. That
22 is not to take away the importance of this hearing. I want to
23 thank you and our ranking member for setting it.

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1 We are here to discuss one of the worst and most impactful
2 hacks that we have seen. It is a breach that entirely preventable
3 due to a level of negligence that in some industries may be
4 considered criminal. The credit reporting industry is
5 infamously unforgiving and it is an industry that helps perpetuate
6 the cycle of poverty. Agencies like Equifax force those with
7 lower credit scores to pay more money for loans and mortgages,
8 less than perfect credit scores can even result in higher rates
9 for products that they don't require credit like our auto
10 insurance premiums. These people who have a harder time paying
11 back higher interest rates make it more likely they won't be able
12 to pay their debt back on time and will hurt their credit further.
13 Yet Equifax and the rest of the credit reporting industry expect
14 forgiveness for breach after breach lobbying Congress for even
15 less liability.

16 When restaurants fail regular health inspections they are
17 routinely shut down for violations. They are shut down even if
18 problems aren't yet occurred as a consequence of their violations.
19 It isn't clear to me why Equifax, who is beyond that point, should
20 be allowed to continue operating when they have failed
21 spectacularly at their core business and endangered the public.
22 In the next couple months, Senate Republicans may repeal the
23 Consumer Financial Protection Bureau's arbitration rule thus

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1 allowing companies like Equifax to put clauses in their fine print
2 forcing individuals into arbitration agreements instead of class
3 action agreements where they stand a chance of being able to cover
4 some of their loss.

5 But it should be clear to us by all that is now not the time
6 to roll back consumer safeguards in the financial industry and
7 I support my colleague and our ranking member Congresswoman
8 Schakowsky's Secure and Protect Americans' Data Act. I look
9 forward to hearing what our witness has to say. Mr. Smith,
10 ID theft protection companies have seen a big jump in business
11 and share price since the breach of your company including
12 LifeLock who has reported a tenfold increase in enrollment for
13 their credit monitoring and other services. LifeLock has a
14 contract to purchase credit monitoring services from Equifax,
15 meaning that every time someone signs up for LifeLock protection
16 from the impact of Equifax' data breach they are again
17 involuntarily sign up for Equifax to provide those services and
18 Equifax makes money on that breach. What is the value of that
19 contract that LifeLock has with Equifax?

20 Mr. Smith. Congressman, I don't recall what that is. But
21 at the same time, those same consumers have the ability to come
22 to us directly and get free product.

23 Mr. Green. Okay. If it is available I would hope you would

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1 send it and share it with the committee. Mr. Smith, an Equifax
2 report marketed to its business customers says that leading
3 lifestyle databases available commercially offer hundreds of
4 response segments covering almost every conceivable aspect of how
5 consumers live and what they spend their money on and what interest
6 they have.

7 Can you tell me on -- tell us on as granular level as possible
8 what the sources are for that data for every conceivable aspect
9 of a consumer's life?

10 Mr. Smith. Congressman, I am not quite sure what you are
11 referring to. We are not a data provider in the area of behavioral
12 analytics, behavioral data, social media data, so I am not quite
13 sure what you are referring to.

14 Mr. Green. Well, I have a lot of constituents who are
15 concerned about, for example, they say oh, I don't need to worry
16 about this breach, I haven't applied for credit for 10 years. But
17 that is not always the case because these hundreds of millions
18 who are released, maybe they bought, you know, a car 20 years ago
19 and that data still goes forward, I assume.

20 Mr. Smith, Equifax customers are businesses who purchase
21 data and credit reports on consumers. The American public is
22 essentially Equifax's product. How many times per year on
23 average does Equifax sell access to a given individual's credit

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1 file to a potential creditor and how much do they make every time
2 they sell it?

3 Mr. Smith. If I understand the question, Congressman, we
4 take the data that is given to us by the credit ecosystem of the
5 U.S., add analytics to it, and then when a consumer wants credit
6 again through credit card, home loan, a car, the bank then comes
7 to us for that data and for that analytics and we charge them for
8 that.

9 Mr. Green. Okay. Well, the question was how many times
10 does Equifax receive payment for that individual credit file?
11 Every time -- if my local car dealer contacts Equifax and so they
12 pay a fee to Equifax for that information?

13 Mr. Smith. Yes, Congressman. If you as an individual want
14 to go to that car dealership and get a loan for a car they come
15 to us or our two competitors, and when they take your data, access
16 your data we do get paid for it.

17 Mr. Latta. Pardon me. The clock wasn't started right.
18 You have about 15 seconds.

19 Mr. Green. I am sorry?

20 Mr. Latta. You have about 15 seconds. The clock didn't
21 start up on you, so you have 15 seconds.

22 Mr. Green. Oh, okay. Oh, I thought I just had a perpetual
23 time.

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1 Mr. Latta. No.

2 Mr. Green. Mr. Chairman, I just have one more question.
3 The products that Equifax are so far providing victims of the
4 breach do not include anything they won't need if it weren't for
5 Equifax's laxes on their data. You, however, made more than \$69
6 million in 2016. And so, but that is the concern that this
7 committee has and I know we have for all our constituents.

8 And I thank you, Mr. Chairman, for your time.

9 Mr. Latta. Well, thank you very much. I appreciate the
10 gentleman's questions. And the chair now recognizes the
11 gentleman from Oklahoma for 5 minutes.

12 Mr. Mullin. Thank you, Mr. Chairman.

13 Mr. Smith, what is your current job?

14 Mr. Smith. I am retired.

15 Mr. Mullin. You are retiring. Are you still getting paid
16 by the company?

17 Mr. Smith. No, sir.

18 Mr. Mullin. So you are fully retired and so you have no
19 affiliation at all with the company? You are not on as a
20 contractor or as --

21 Mr. Smith. No, Congressman. What I agreed to do because
22 I love this company, I spent 12 years with 10,000 people trying
23 to do the right thing, is I told the board it was right for me

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1 to step down and have new leadership, take this company in a new
2 direction. So when I retired I agreed to work for as long as the
3 board required, for free, to help make it right for the consumers.
4 So the affiliation is to do free work with the board of directors
5 and the interim CEO.

6 Mr. Mullin. So you are not getting paid in any manner, not
7 through any type of shares, stocks, anything?

8 Mr. Smith. Nothing. The day I announced my retirement that
9 ended.

10 Mr. Mullin. Do you still own stock in the company?

11 Mr. Smith. I am sorry?

12 Mr. Mullin. Do you still have stock in the company?

13 Mr. Smith. Oh, yes.

14 Mr. Mullin. Have you sold any of it?

15 Mr. Smith. I have been there for 12 years. Yes, sir.

16 Mr. Mullin. In recent, since this has become aware to the
17 public?

18 Mr. Smith. During this breach?

19 Mr. Mullin. Yes.

20 Mr. Smith. Oh. No, sir.

21 Mr. Mullin. Are you aware of the individuals that have?

22 Mr. Smith. Yes. There are three individuals who reported
23 directly to me while I was their CEO.

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1 Mr. Mullin. That sold stock?

2 Mr. Smith. Yes. One -- yes, and all three of them are men
3 I have known, I mentioned earlier, for a number of years. Two
4 for almost 12 years and one for 3 or 4 years and they are men of
5 high integrity.

6 Mr. Mullin. Did they sell it before this went public?

7 Mr. Smith. Yes. As I said before, the knowledge -- we went
8 public with this on September 7th.

9 Mr. Mullin. And when did they sell their stock?

10 Mr. Smith. August 1st and 2nd.

11 Mr. Mullin. So after the breach?

12 Mr. Smith. No, sir. The timeline of the end of July, 29th
13 and 30th and notification on the 31st of suspicious activity, at
14 that time 1 or 2 days prior to their selling there was no indication
15 of a breach.

16 Mr. Mullin. So what would cause them to sell it?

17 Mr. Smith. There is, as a what we call a Section 16 Officer,
18 there is a limited window in which they can sell. It tends to
19 be right after the earnings call for no more than 30 days, so this
20 is a natural process. The window opened after the second quarter
21 window, second quarter call.

22 Mr. Mullin. In your opening statement you had mentioned
23 that there was an error in the portal and it was 3 weeks before

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1 you were notified of a breach?

2 Mr. Smith. If I can clarify?

3 Mr. Mullin. Yes.

4 Mr. Smith. There was a software, it is called an open source
5 software that was deployed in this environment, this consumer
6 dispute portal.

7 Mr. Mullin. Right.

8 Mr. Smith. We never found a vulnerability, didn't patch
9 that vulnerability. That was the issue.

10 Mr. Mullin. So who was in charge overseeing that? Who was
11 supposed to be watching those portals for you?

12 Mr. Smith. Ultimately me.

13 Mr. Mullin. I know. Ultimately you, I get that. But who
14 did you have hired that was supposed to watch that?

15 Mr. Smith. There was on the vulnerability side, there was
16 the --

17 Mr. Mullin. Do you have a department that is dedicated to
18 this?

19 Mr. Smith. Yes. There is a chief information officer who
20 was ultimately responsible. He was --

21 Mr. Mullin. Is that person still over that department?

22 Mr. Smith. No, sir. He is gone.

23 Mr. Mullin. He is gone. You said you put in, once you were

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1 made aware of the breach you put in four plans of action, right.

2 The first one was, do you remember?

3 Mr. Smith. Notification.

4 Mr. Mullin. Notification. The second one was a call
5 center. The third one was increased cyber attacks, preparing for
6 that. The fourth one was coordinating with law enforcement. I
7 am also or was CEO, not on a company the size that you have but
8 from the companies that my wife and I have had and we have protocols
9 put in place of what could happen. We know cyber attacks happen,
10 you hear it every day on the news.

11 These four things that you named were common sense, things
12 that should have been put in place to begin with. It should have
13 been the fire alarm. You are in that world. This should be on
14 the side of the wall where you pull the handle and it immediately
15 goes into place. How was it that it was just now thought of that
16 you needed to have four common sense principles put in place on
17 how to react to something in a world where we knew you were
18 vulnerable at?

19 Mr. Smith. We have protocol, team followed protocol. This
20 is well known what to do. From hiring a cyber forensic expert
21 we knew what to do, we have done it before. Engaging a
22 world-leading cyber arm of a law firm, we knew what to do. These
23 are all protocols that they knew what to do.

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1 The one thing, Congressman, it is not a switch on a wall.
2 It is the ability to stand up the environment we had to stand up
3 --

4 Mr. Mullin. It took a long time to stand up and that is the
5 issue we have here is you are on the leading front of this. And
6 the four things that you identified to me, I don't mean to simplify
7 it by saying a switch on a wall, but these protocols should have
8 already been put in place and you should have been on a react much,
9 much sooner than what took place. And with that I am sorry. I
10 don't mean to cut you off, but the chairman has indulged me longer
11 than what he should have and I appreciate your time. Thank you,
12 Mr. Chairman.

13 Mr. Latta. Thank you very much. The gentleman's time has
14 expired and the chair now recognizes the gentlelady from
15 California, Mrs. Walters, for 5 minutes.

16 Mrs. Walters. Thank you, Mr. Chairman.

17 Mr. Smith, before I get to my question I just want to say
18 that on behalf of the 15 million Californians whose information
19 was exposed, we expect better. Your business model was based on
20 collecting and maintaining the most sensitive information on
21 folks and you let us all down and that happened on your watch.
22 And from my briefings it appears that this could have been and
23 frankly should have been prevented.

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1 Now Equifax's business model depends on gathering consumer
2 information, repackaging it, and selling it. Equifax has set up
3 a website in which consumers can enter information to determine
4 if they are at risk and sign up for credit monitoring and credit
5 lock. To participate, a person has to give Equifax the same type
6 of personal information, including Social Security Number, which
7 Equifax put at risk in this breach. I want to know what Equifax
8 is planning to do with this information besides offering credit
9 monitoring and credit locks. Can you ensure me that Equifax will
10 not plug this information back into its core business operation
11 and sell it to its lenders?

12 Equifax should not benefit from the situation and I want to
13 know that Equifax is going to wall off this information and
14 guarantee that the company will not profit from this situation.

15 Mr. Smith. Congresswoman, thank you for your comments.
16 And as I mentioned in my written testimony and my oral testimony,
17 I have said throughout the morning and I will say again today,
18 as the CEO it was under my watch. I am responsible. I am
19 accountable and I apologize to all of your consumers in
20 California.

21 The intent of this offering that we are giving to your
22 constituents in California and to consumers across the country
23 is in an environment where we are not going to sell other products.

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1 It is to come there and be service protection of the five offerings
2 that you had mentioned, not to sell and take your data and monetize
3 that. It is to take and protect you with these five services.

4 Mrs. Walters. Equifax's breach notification website uses
5 a stock installation of WordPress. This causes me a lot of
6 concern because it seems to have insufficient security for a site
7 asking people to provide part of their Social Security Number.
8 Can you assure me that this website is secure and will not further
9 endanger the personal information of my constituents?

10 Mr. Smith. Congresswoman, we took what we believe was the
11 right amount of time working hastily from late August to going
12 live on the 7th. One of the four work streams the Congressman
13 from Oklahoma mentioned was ensuring we were prepared for what
14 was going to be increased cyber attacks as told to us by our
15 forensic examiners. And one of the first things we did was ensure
16 that the website we were bringing consumers to, to get these free
17 services, was as secure as possible. So that was one of our top
18 priorities.

19 Mrs. Walters. Okay. And finally, my last question is how
20 many U.S. consumers have enrolled in the credit monitoring service
21 TrustedID? I will just finish here, because I know multiple
22 people who have enrolled including my immediate family and they
23 were told that they would receive an email to complete the process.

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1 After days of waiting they have not received an email and wanted
2 to know what the delay in processing this protection and when will
3 they be able to complete the process to help protect their
4 information?

5 Mr. Smith. I understand the question and I mentioned
6 earlier that over 400 million consumers have come to the website.
7 I would assume we don't have 400 million consumers in the country
8 so a number of them came back multiple times. But it is a lot
9 of volume. Number two, I was told in the last few days that the
10 backlog waiting for those emails has now been fulfilled, had been
11 drained. As you come into the system it is a more immediate
12 response, so the team seems to have made great progress in the
13 last couple weeks.

14 Mrs. Walters. Okay, thank you. And I yield back the
15 balance of my time.

16 Mr. Latta. Thank you very much. The gentlelady yields back
17 and the chair now recognizes the gentleman from Pennsylvania for
18 5 minutes.

19 Mr. Costello. Thank you, Mr. Chairman. I have heard from
20 hundreds of constituents in my congressional district. There are
21 approximately five and a half million in Pennsylvania. I have
22 reviewed each and every one of the constituent stories that I have
23 received.

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1 And amongst my growing concerns, your baseline security
2 practices leading up to the breach, the company's awareness of
3 the breach developments and relevant timing, how consumers can
4 get assistance in securing their accounts, how reliable the
5 recovery efforts are in the wake of the breach, and the path
6 forward long term for consumers' personal information and making
7 sure they are safe despite the breach.

8 And it is this last one that is so particularly angering
9 because it is going to potentially be so destructive to hundreds
10 of millions of Americans what might happen to them in the years
11 to come. And as the head of the company and throughout the
12 company, the culture of that company has to know how predictable
13 the damage can potentially be.

14 And so I ask you, is it not predictable how bad it might get
15 for the individuals who have been compromised in terms of how much
16 damage could be wrought upon them individually in the years to
17 come?

18 Mr. Smith. Congressman, let me start by saying that like
19 you I have talked to constituents, consumers across this country
20 who have been impacted. I have personally read letters from
21 consumers complaining and voicing their anger and frustration,
22 so I know what you were seeing back home in Pennsylvania.

23 Mr. Costello. See, I think the anger is going to be

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1 multiplied thousands of times when something actually happens.
2 So when you talk about how predictable some of this is, the rollout
3 of the call centers and the second rollout and the third rollout,
4 it has to be predictable how massive this is and what would need
5 to be put in place from a protocol perspective in order to address
6 what is coming.

7 And the slow rollout and how poor it was done to me is just
8 inexcusable. I mean you have to have departments dedicated to
9 dealing with this potential and it doesn't appear to me as though
10 that was planned. Or if it was planned it was planned extremely
11 poorly.

12 Mr. Smith. I understand your point, but it requires a little
13 more color. We went from 500 call center agents to a need of
14 almost 3,000. Properly handled call center agents to handle
15 consumer calls took time. We did the best we could in a short
16 period of time to ramp those up. I mentioned in my opening
17 comments two of our larger call centers in the first weekend --

18 Mr. Costello. I understand, the hurricane.

19 Mr. Smith. -- taken out by Hurricane Irma. We were not
20 prepared for that kind of call volume.

21 Mr. Costello. How couldn't you be? How couldn't you be?

22 Mr. Smith. It is not our traditional business model. Our
23 traditional business model is dealing with companies, not 400

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1 million consumers coming to the website.

2 Mr. Costello. But your business model has a couple hundred
3 million customers, so on a breach of this scale obviously you are
4 going to have at least that number and probably twice that amount
5 calling, inquiring as to whether or not they are subject to the
6 breach and that wasn't done.

7 Mr. Smith. Congressman, the difference is again the primary
8 business model we have is dealing with companies, not with
9 hundreds of millions of consumers. We did the best we could to
10 react as quickly as we could. I had mentioned that the service
11 is getting better each and every day. We have listened to
12 consumers' feedback and tried to make changes to the website, we
13 have made changes to the call center.

14 Mr. Costello. You are familiar with the Safeguards Rule
15 that is essentially what you operate under?

16 Mr. Smith. Yes.

17 Mr. Costello. How often does a forensic consultant issue
18 a letter or a certification or a law firm issue a certification¹¹³
19 that they feel your protocol is in compliance with the Safeguards
20 Rule?

21 Mr. Smith. We are in compliance. I am not sure how often
22 that is actually communicated, is you are saying communicates with
23 us?

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1 Mr. Costello. How would you know that you are in compliance
2 then? Because if you said you followed protocol and protocol led
3 to this, then it is very difficult for me -- I mean that calls
4 into question whether the Safeguards Rule is sufficient enough.
5 Because if you are saying you are in compliance with it and you
6 followed protocol and this still happened that unearths a whole
7 other set of questions.

8 Mr. Smith. Again the speed of reaction and the scale of the
9 reaction was unprecedented for -- I am not taking any excuses.

10 Mr. Costello. Yes. But there is a corporate governance
11 issue here as I see it and that is your board of directors gets
12 together, you are CEO. You have a chief information officer, you
13 have a chief security officer and at least once a year and probably
14 quarterly you have, I presume, outside forensic consultants doing
15 this stuff every single day from you on retainer. And the speed
16 at which you have to do this just to run your company operationally
17 you don't ever stop. It is obviously ongoing and persistent.

18 And it just seems to me that through insurance policies,
19 through reporting to your board, through your board wanting to
20 make sure that they are doing their job that you are going to be
21 looking for certifications from your outside forensic consultants
22 doing audits to say yes, you are doing good. You are doing good.
23 Here are the new threats. Here is how we are updating. And I

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1 just don't see -- that is the kind of information I think would
2 be extremely helpful that we have not received any information
3 from today.

4 But I would ask you since I am well over my time that I would
5 like to know how often your board asks you to certify whether or
6 not you are in compliance and what is that protocol and when was
7 the last time you updated that protocol? You said you have
8 complied with protocol. When was the last time that was updated?

9 Mr. Smith. I understand your question. We will get you
10 that information.

11 Mr. Costello. Do you yield back after you are already well
12 over? I yield back.

13 Mr. Latta. Your time is expired, how is that? The chair
14 now recognizes the gentleman from Georgia -- I am sorry. I am
15 sorry. The gentleman from New York, 5 minutes.

16 Mr. Tonko. Thank you, Mr. Chair. Americans should know
17 their sensitive personal information is safe. Their security is
18 exposed when private companies including Equifax can collect
19 their private information without their direct knowledge or
20 consent, and it is why I am co-sponsoring Representative
21 Schakowsky's measure, H.R. 3896, the Secure and Protect
22 Americans' Data Act.

23 Mr. Smith, we are here today because months after the breach

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1 actually took place your company, Equifax, revealed that its
2 for-profit business practices have exposed the highly sensitive
3 personal information of some 145-1/2 million Americans and
4 counting. Your data breach exposed a critical vulnerability in
5 the American economy and the information security of the American
6 people. Victims of this breach span every age group, every race,
7 class, and other demographic. They now face a lifetime at risk
8 of fraud, identity theft, and other crimes as a result of the
9 private data that you exposed.

10 I have many, many questions and allow me to be the conduit
11 through which my constituents ask you, Mr. Smith, their questions.
12 I will go first to Garance (ph.), a constituent, pointed out to
13 me it would be wrong to call the victims of this breach Equifax
14 customers. Most of them never asked to be tracked and judged by
15 a private company with little public oversight or accountability.
16 This is unacceptable. And he asks why he has been impacted in
17 this manner. Any comment to Garance's question?

18 Mr. Smith. Again, Congressman, I have read many similar
19 letters and talked to people back home in Atlanta who voice that
20 same concern. I can tell you this. Where a company has been
21 around for 118 years, have 10,000 employees trying to what is right
22 each and every day, I apologize to the individual who wrote you
23 that letter. I apologize to America for what happened and we are

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1 going to try to make it right.

2 Mr. Tonko. My constituent Jason from Albany asked, Mr.
3 Smith, did you to the best of your knowledge employ the best and
4 most effective defense available to you to prevent this breach?

5 Mr. Smith. You know, a crisis that never occurs if
6 everything has gone right. In this case as I mentioned earlier
7 we had a human error and a technology error. It wasn't because
8 we were unwilling or unable to make the financial investments in
9 people, process, or technology though.

10 Mr. Tonko. My constituent Tanya asks, how do I get Equifax
11 to fix this without signing over my rights and what related costs
12 will I, Tanya, be expected to pay over my lifetime?

13 Mr. Smith. The five products we launched or the services
14 we offered in September are all free. They are all spelled out
15 in the press release that gives that individual significant
16 protection. The most comprehensive change is coming in January
17 of next year which is the ability for consumers to lock and unlock
18 their data when they want and only when they want.

19 Mr. Tonko. And any related costs that she should expect to
20 pay over her --

21 Mr. Smith. Those services are all free.

22 Mr. Tonko. A number of my constituents would like to know,
23 given that the sole purpose of credit agencies is to secure

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1 handling of consumers' confidential information which they
2 spectacularly failed to do that why is this company allowed to
3 continue to exist?

4 Mr. Smith. We have a rich history of helping those who want
5 to get access to credit to get access to credit. The company has
6 done many great things to help those in the unbanked world who
7 would never otherwise have access to credit because of what we
8 do, bring them into the credit world.

9 Mr. Tonko. Constituent Lee (ph.) from Albany asks, why are
10 you using this gross misconduct to turn your victims into
11 customers for a paid monitoring service that you will profit from?

12 Mr. Smith. That is not the intent. Our intent is to offer
13 those five services for free followed by the sixth service which
14 is a lifetime lock for free.

15 Mr. Tonko. My constituent Karen asks why have you not
16 notified each person whose data you compromised? Most never
17 asked you to collect it and securely store their private
18 information, so we are the representatives and why should they
19 be responsible for your malpractice?

20 Mr. Smith. Following the recommendation of those who
21 advised us we did notify through the press release notifying the
22 entire population, not just those who were victim of the criminal
23 act but all Americans, to get access to these products and services

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1 for free.

2 Mr. Tonko. And my constituent James from Defreestville, New
3 York asks why did it take you so long to announce the data breach
4 and why shouldn't you be held responsible for every day of failing
5 to report?

6 Mr. Smith. I think hopefully my written testimony and my
7 oral testimony and the dialogue we have had today has talked about
8 the timeline in enough granularity to help that person understand
9 what occurred from March through September 7th.

10 Mr. Tonko. And a constituent Stephanie from East Greenbush
11 asks, do they know if the people were targeted or randomly picked?
12 Why some but not others?

13 Mr. Smith. At this point all indication are it was at
14 random. It was not targeting of individuals specifically.

15 Mr. Tonko. I have exhausted my time, but let me assure you,
16 Mr. Smith, I have many, many, many constituent questions that
17 continue to pour forth and we are going to provide those after
18 the hearing here and would expect that they would all be answered.
19 And again thank you for your response. I yield back, Mr. Chair.

20 Mr. Latta. Thank you very much. The gentleman yields back
21 and the chair now recognizes the gentleman from Pennsylvania for
22 5 minutes.

23 Mr. Murphy. Thank you, Mr. Chairman, for allowing me to sit

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1 in on this hearing. My fellow members have already asked a lot
2 of questions, very important high level questions, but I want to
3 take a few moments to dig a little more deeply into a few specific
4 issues.

5 We now know that Equifax information security department ran
6 scans that should have detected systems that were exploitable by
7 the Struts' vulnerability but that the scans didn't detect any.
8 Obviously at least one system was vulnerable. So if the scan
9 wasn't properly configured to catch this vulnerability, in other
10 words you missed a major breach, is it possible that it has also
11 been improperly configured to detect similar vulnerabilities?

12 Mr. Smith. I have no knowledge of that. I have no knowledge
13 of that being the case.

14 Mr. Murphy. But now you have to feed the information in
15 these scans and it has to be complete and accurate information
16 and this information apparently was fed in an incomplete way;
17 isn't that true?

18 Mr. Smith. Could you repeat the question, please?

19 Mr. Murphy. In order to scan something a human has to feed
20 it information, right?

21 Mr. Smith. I am not a scanning expert, Congressman. My
22 understanding is you have got to configure the scanner in certain
23 ways to look for certain vulnerabilities.

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1 Mr. Murphy. Yes, but a lot of what is going on here is you
2 are blaming, they say no humans are involved here, but configuring
3 is done by a human being, isn't it right? And some inaccurate
4 information got in there too. So if it was improperly configured
5 to catch the vulnerability, is it possible it has also been
6 improperly configured to detect similar vulnerabilities?

7 Mr. Smith. I have no indication to believe that is the case.

8 Mr. Murphy. We have also heard a lot about the website
9 Equifax set up to handle the consumer protection response at
10 equifaxsecurity2017.com. As it has been pointed out, this looks
11 like a website that scanners would use for phishing. In fact,
12 it was widely reported in the press someone switched two words
13 and made it into phishing website that looked almost identical.
14 Luckily, this person was just trying to make a point, but I think
15 that point is well taken.

16 You said earlier today that you set up this external website
17 because Equifax's own domain wouldn't be able to handle the sheer
18 amount of traffic. Now why wouldn't your website be able to
19 handle this traffic? I mean it just doesn't make sense a company
20 of your size and knowledge doesn't understand how to handle
21 traffic for over a 100 million people. Don't you use an elastic
22 cloud computing service that would have accounted for this
23 traffic?

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1 Mr. Smith. Congressman, a point of clarification, if I may.
2 This phishing site that you referred to was mentioned a few times
3 today, was a error by an individual in the call center. My
4 understanding is --

5 Mr. Murphy. Well, let me get this other question though.
6 I just want to -- okay, we have that established, but I want to
7 ask this question though. Your own domain wouldn't be able to
8 handle the sheer amount of traffic, but don't you use something
9 like an elastic cloud that would allow for greater traffic?

10 Mr. Smith. The environment the microsite is in is a cloud
11 environment that is very, very scalable. The traditional
12 environment that we operate in could not handle 400 million
13 consumer visits in 3 weeks.

14 Mr. Murphy. Well, I am going to come back to some of this
15 stuff too. I want to come back to the issue of patching the March
16 vulnerability. Now I know this has come up a few times, but I
17 want to make sure to highlight this point since it is critical
18 in understanding how this breach occurred here.

19 Our understanding is that fixing this vulnerability required
20 more effort than simply installing a patch. But we also
21 understand that when Equifax did patch the vulnerability it took
22 less than 3 days to do so. So if the patch only took a few days
23 to apply, why did Equifax fail to install it immediately after

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1 it was announced as critical?

2 Mr. Smith. Patching takes a variety of time. I am not sure
3 where you got the note that it is 3 days. Patching can take from
4 days to up to a week or more to apply a proper patch.

5 Mr. Murphy. Did you notify everybody it was going to take
6 some time? Did you notify all your customers it was going to take
7 some time? Did you notify people there was the risk of your trying
8 to apply the patch?

9 Mr. Smith. I know of no standard protocol that we would
10 notify --

11 Mr. Murphy. I didn't ask about standard protocol. I asked
12 did you notify people.

13 Mr. Smith. I have no knowledge that we would notify
14 customers or consumers of a patching process.

15 Mr. Murphy. So you didn't notify anybody that the patch was
16 going to take place and in the meantime there was a risk that
17 existed?

18 Mr. Smith. I have no knowledge of need --

19 Mr. Murphy. Did you notify other people -- did other people
20 and the executives of your company, were you aware of it?

21 Mr. Smith. As I have said before I was not.

22 Mr. Murphy. You were not aware that there was this problem
23 with the vulnerability? You just told me it takes a few days or

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1 a few weeks, but you weren't aware that it existed?

2 Mr. Smith. That is correct.

3 Mr. Murphy. Well, let me wrap up with one final thought
4 here. In your testimony you state that the breach occurred
5 because of both human error and technological failures, or
6 technology failures. So looking at the three features I just
7 highlighted -- the improperly configured scans, the poorly chosen
8 website, the lack of patching -- these are not failures of
9 technology. A human misconfigured the scan. A human selected
10 the website name. A human failed to apply the patch.

11 While I understand that cybersecurity is an immensely
12 complicated field, we have dealt with this many times in this
13 committee and sometimes flaws in technology we rely on are really
14 to blame, but I also think it is important to be upfront about
15 the causes of breaches like this. And if we continue to blame
16 technology for human failures to provide inadequate
17 cybersecurity, I think we are going to have a very difficult time
18 improving our capabilities and preventing future cyber threats.

19 Mr. Chairman, I recognize I am out of time. We will see you
20 again in my subcommittee.

21 Mr. Latta. Thank you very much. The gentleman's time has
22 expired and the chair now recognizes the gentleman from Maryland
23 for 5 minutes.

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1 Mr. Sarbanes. Thank you, Mr. Chairman.

2 Mr. Smith, thank you for being here. You have been the
3 president of the company for, CEO for 12 years; is that right?

4 Mr. Smith. That is correct.

5 Mr. Sarbanes. There is three things I think that the public
6 is angry about. Certainly, as my colleague was indicating, we
7 are getting a lot of messages and contacts, inquiries from our
8 constituents across the country.

9 First of all, they want to understand. And you have tried
10 to explain it today, but I am not sure it is going to be
11 satisfactory why there wasn't sufficient protections in place on
12 the front end so that this kind of breach wouldn't happen in the
13 first place given the sensitivity of the information that you are
14 keeping in the company. The second thing is how quickly once a
15 breach was discovered you came clean to the public and provided
16 information on what was happening. There seems to have been a
17 delay there that concerns people.

18 The third is whether the services that you are now providing
19 to people, you have enumerated to five or six free services that
20 you are providing to people, whether that is going to be a
21 sufficient assurance to folks going forward that their identity
22 can be protected, that their information is safe and so forth.
23 So you are trying to fix things now, but there is going to continue

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1 to be, I think, serious questions about all three of those things
2 that I just mentioned.

3 I wanted to ask you about the kind of remedies that you have
4 out there because there is some confusion. I got a question from
5 a constituent who had purchased a monitoring service that would
6 cover his family including a child under the age of 18. So first
7 of all, can you tell me, it is possible for someone under the age
8 of 18 to have their identity stolen; is that correct as far as
9 you understand?

10 Mr. Smith. Is it possible?

11 Mr. Sarbanes. Yes.

12 Mr. Smith. As it relates to this breach?

13 Mr. Sarbanes. Just generally. Identity, if certain
14 information about a minor is divulged to some unscrupulous actor
15 that can be used to steal the identity of that person.

16 Mr. Smith. If someone has a Social Security Number, at any
17 age, can that be compromised, yes. It could not be compromised
18 in this case because this database they got into it is my
19 understanding only was for those who had credit, credit active
20 or inactive, and they have been in a credit environment.

21 Mr. Sarbanes. Okay. But my understanding is that when you
22 provide a family service you are collecting information and
23 holding information that includes the Social Security Number of

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1 people who may be under the age of 18.

2 Mr. Smith. I have no knowledge that under 18, not credit
3 active, was compromised here. I can look into that.

4 Mr. Sarbanes. Okay.

5 Mr. Smith. But I have no knowledge.

6 Mr. Sarbanes. If that is the case, is this free service that
7 you are providing going to cover any exposure or information that
8 is related to a minor, as opposed to somebody who is over the age
9 of 18, if you had information on that minor?

10 Mr. Smith. I can look into that Congressman. The intent
11 of the coverage was to cover anyone in America who is in the credit
12 system. So if you are under 18 and not in the credit system, I
13 will check your one point which is on this concept called family
14 plan that you are alluding to where you lock down consumers, you
15 monitor consumers. I don't believe their Social Security Numbers
16 were in this system, but we can verify that.

17 Mr. Sarbanes. Well, that is important because --

18 Mr. Latta. If I could just interrupt. I think again we had
19 a little clock issue. You have about 30 seconds left. Thank you.

20 Mr. Sarbanes. Okay. I think it is important because it may
21 be that with respect to credit reporting the implications of this
22 breach only attach to people that are 18 or older. But if you
23 are holding information about minors like a Social Security Number

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1 that is part of the portfolio of information you are getting from
2 a family, for example, particularly when the family has paid for
3 this service, you are holding their Social Security Number, so
4 any breach that makes that information available outside of the
5 arena in which it is supposed to be kept close creates
6 vulnerability for that person.

7 It is not like we get a new Social Security Number when we
8 turn 18. So that is going to follow them all the way through and
9 create some real risk for them. So I think that is a piece of
10 this that we need to understand much better, and I want to thank
11 my constituents for sort of bringing that to our attention.

12 Mr. Smith. I understand your point. To the best of my
13 knowledge, that data is not included in the breach, but I will
14 look into it.

15 Mr. Sarbanes. Thank you. I yield back.

16 Mr. Latta. Thank you very much. The chair now recognizes
17 the gentleman from Georgia, 5 minutes.

18 Mr. Carter. Thank you, Mr. Chairman. And I want to thank
19 you for allowing me to sit in on this today.

20 Mr. Smith, thank you for being here. I know it has been a
21 tough day. It has been a tough past couple of weeks. I
22 appreciate you being here and that is important. I am not going
23 to apologize for my colleagues and their questions and their

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1 aggressiveness, if you will, because as you know people are upset
2 and they are mad. You get it and I get it, we all understand it.
3 But nor am I going to pile on, so I want to go a kind of different
4 route, if you will.

5 One of the things that I have learned in the 2-1/2 years that
6 I have been up here is to be very careful about my southern phrases,
7 but one of my southern phrases has always been that you know, fool
8 me once shame on you, fool me twice shame on me. And I want to
9 know what we can learn from this. Now this is not the first time
10 that a data breach has happened. Perhaps it is the biggest that
11 has ever happened, but it has happened to other companies before.

12 Now to the extent that you weren't prepared for this or that
13 it happened to you and I hope that was not due to complacency,
14 I hope it was not due to you not doing everything that you could
15 to have prevented it, but my question is this. Can you share with
16 us any information about the attackers? What do you know and what
17 do you not know about them at this point?

18 Mr. Smith. Congressman, thank you for that. As I mentioned
19 in my opening comments and my written testimony, earlier this week
20 we have engaged the FBI and they currently have the investigation
21 in their hands. So at this juncture we are not disclosing what
22 we know about the hackers.

23 Mr. Carter. How has your cooperation with the FBI been?

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1 Has your experience with them thus far been good and anything that
2 -- this is important. It is important for everyone. Yes,
3 everyone is upset and rightfully so. They should be upset. When
4 your personal data is out there obviously it is very upsetting.
5 But I am trying to go in a different direction. I am trying to
6 figure out how we can prevent this from happening.

7 Mr. Smith. The cooperation with the FBI as best I know has
8 been good. It is ongoing. We have lines of communication into
9 the FBI not just after a breach but routinely throughout the year.
10 So I would say it has been a very good cooperation, Congressman.

11 Mr. Carter. Let me ask you this. Through this scenario,
12 through this experience, rather, if you had to do anything
13 different what would you have done?

14 Mr. Smith. Congressman, I was asked that question earlier
15 and my answer will be the same now as it was earlier. There will
16 be time for reflection personally and as an organization. That
17 coupled with the investigation that we continue to undertake to
18 look at processes in-house. But this juncture, since I was
19 notified in mid-August through this morning, it has all been about
20 the forensics. It has been about trying to protect and do what
21 is right for the consumer and there has been no time to reflect
22 on what I would do differently.

23 Mr. Carter. Okay. Well, when that time comes we need to

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1 know, because we don't need to let this happen again and other
2 companies need to learn from it. You know, this is obviously as
3 I said earlier you are not the first company to suffer from this.
4 You are not the first Georgia company to suffer from this. We
5 understand that. It doesn't make it any less egregious to what
6 has happened, but where I am trying to go is what can we do better
7 to prevent this from happening again? These guys are good, we
8 know that. Listen, cybersecurity is hard. It is way above my
9 pay grade, I can tell you that.

10 Mr. Smith. Congressman, thank you for that. As I mentioned
11 in my comments I take full responsibility as CEO.

12 Mr. Carter. And I understand that and I appreciate that.

13 Mr. Smith. If there is one thing I would love to see this
14 country think about is, the concept of a Social Security Number
15 in this environment being private and secure, I think it is time
16 as a country to think beyond that. What is a better way to
17 identify consumers in our country in a very secure way, and I think
18 that way is something different than an SSN, a date of birth, and
19 a name.

20 Mr. Carter. Well, you are exactly right. I remember my
21 time in the Georgia State Legislature when we changed the, you
22 know, you used to have your Social Security Number on your driver's
23 license. That used to be your driver's license number, you know,

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1 and we changed -- and that was not that long ago. And that is
2 what tells me that this is something that is changing dramatically
3 and quickly and we need to be prepared for it.

4 So I know that you are putting out fires right now, but at
5 some point we need to learn from this. We need to know, look,
6 we shouldn't have done this and we should have done that. What
7 could we have done differently? What will benefit another
8 company to allow that this doesn't happen? And I hope, and thus
9 far you appear to have been honest about all this, I hope that
10 if part of what the problem was complacency that you admit that
11 and say don't ever let your guard down.

12 Mr. Smith. Thank you, Congressman. I would love to be part
13 of that dialogue about what lies ahead to protect individuals'
14 identities.

15 Mr. Carter. Well, again I want to thank you for being here
16 and it says a lot about you and about your company. Thank
17 you, Mr. Chairman. I yield back.

18 Mr. Latta. The gentleman yields back. The chair now
19 recognizes the gentlelady from California for 5 minutes.

20 Ms. Eshoo. Thank you, Mr. Chairman. First, I would like
21 to recognize a former colleague that is here in the chamber with
22 us. Saxby Chambliss who served in the House and in the Senate,
23 it is good to see you, very nice to see you.

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1 Mr. Smith, it seems to me that you have accomplished
2 something that no one else has been able to accomplish and that
3 is that you have brought Republicans and Democrats together in
4 outrage and distress and frustration over what has happened,
5 because this is huge. This is almost half of the country and their
6 information.

7 You know, the American people are, I think they have privacy
8 in their DNA. we don't like Big Brother. We don't like people
9 having information on us. We know in an information and then the
10 digital age that that is impossible, but boy, when that is
11 breached, when the privacy goes out the window it really puts a
12 dent in people's lives. I equate it with because they don't feel
13 that they can do anything about it. They feel helpless. I come
14 from earthquake country and when that rattle first starts you
15 really do feel helpless. You feel absolutely helpless.

16 Now it has been, the question has kind of been posed
17 rhetorically by some members, because I have been sitting in for
18 awhile at this hearing, what can be done. I have the privilege
19 of representing most of Silicon Valley. I have asked this
20 question about the protection in terms of privacy breaches in our
21 country to just about every CEO I have met and they have responded
22 like a chorus and said there are two main reasons for breaches
23 in our country, number one, a lack of hygiene in systems and very

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1 poor security management. That is why I have legislation.

2 Senator Hatch is the lead sponsor in the Senate. I have the bill
3 in the House.

4 So it is distressing to me knowing this information that
5 Homeland Security notified Equifax, this is almost 7 months ago,
6 this has to do with a patch. So I know there are a lot of questions
7 that have probed this, but you as CEO at the time, when Homeland
8 Security informed your company that there was a breach what did
9 you say to your CIO officer? Did you understand what the breach
10 was? Did you understand what the patch meant? Did you
11 understand the timeliness, the need for timeliness to have this
12 fixed and did anything change in that department? Was there a
13 new policy put in place by you?

14 Mr. Smith. Congresswoman, to clarify, when the CERT came
15 out in March there was no notification of a breach. There was
16 notification --

17 Ms. Eshoo. What did it mean?

18 Mr. Smith. What it meant was --

19 Ms. Eshoo. I mean if I got a notice from Homeland Security
20 that is like the FBI knocking on the door. I mean it is the federal
21 government. That in and of itself is a bit menacing, isn't it?

22 Mr. Smith. What it meant was an open source software
23 commonly used and deployed around the world called Apache Struts

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1 had a vulnerability and the notification was the vulnerability
2 should be patched.

3 Ms. Eshoo. All right. And did you ask if it was patched?

4 Mr. Smith. We get notifications --

5 Ms. Eshoo. No, you got the notification from Homeland
6 Security, all right? What did you do about it the day you found
7 out? The company was notified on, I believe, the 9th of March.
8 When did you know?

9 Mr. Smith. The team, security team followed a protocol and
10 instantly within a day sent notification out to many people in
11 the organization that a patch needed to be applied to Apache
12 Struts.

13 Ms. Eshoo. And did you ask your team when it was applied?

14 Mr. Smith. The security team did and they spoke with the
15 IT team as well.

16 Ms. Eshoo. When did they take care of it?

17 Mr. Smith. Throughout the testimony we talked about what
18 occurred was there was a communicate --

19 Ms. Eshoo. Well, just tell me when it happened. When was
20 it actually --

21 Mr. Smith. The following day communication was sent out to
22 those that needed to be notified.

23 Ms. Eshoo. You already said that. I want to know when they

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1 did it, when they took care of it.

2 Mr. Smith. They took care of it in July because we never
3 found it. It wasn't until, if you recall, we had the human error,
4 we did the scan, the technology never found it. In July we saw
5 suspicious activity, took the portal down, found the
6 vulnerability, applied the patch.

7 Ms. Eshoo. Well, I thank the chairman. We have in the rules
8 of the full committee which are approved at the beginning of every
9 Congress that members of the full committee can participate in
10 subcommittees where they are not members and I appreciate the
11 legislative courtesy. And I think there is a lot more to be done
12 on this issue, Mr. Chairman, if I might make the recommendation.
13 I think we should have the CIO, the chief information officer,
14 come in because I don't think that this resolved. So thank you.

15 Nice to see you, Saxby.

16 Mr. Latta. Thank you very much. The gentlelady's time has
17 expired. And we are just going to ask one quick follow-up
18 question so I am going to yield to the ranking member first.

19 Ms. Schakowsky. First of all, Mr. Chairman, I would like
20 to insert for the record a letter from consumer groups, too, a
21 letter from Credit Union National Association, and an article from
22 WGN-TV.

23 Mr. Latta. Without objection, so ordered.

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[The information follows:]

*****COMMITTEE INSERT 2*****

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1 Ms. Schakowsky. Oh, sorry.

2 So in closing, Mr. Smith, I want to quote again from you,
3 from your testimony. You mentioned the five fixes, so-called,
4 and you put, "This puts the control of consumers' credit
5 information where it belongs, with the consumer." So I want to
6 ask you a question. What if I want to opt out of Equifax? I don't
7 want you to have my information anymore. I want to be in control
8 of my information. I never opted in. I never said it was okay
9 to have all my information and now I want out. I want to lock
10 out Equifax. Can I do that?

11 Mr. Smith. Congresswoman, that requires a much broader
12 discussion around the rule that credit reporting agencies --
13 because that data as you know, today, doesn't come from the
14 consumer it comes from the furnishers and the furnishers provide
15 that data to the entire industry.

16 Ms. Schakowsky. No, I understand that and that is exactly
17 where we need to go, to a much larger discussion because most
18 Americans really don't know how much information, what it is, that
19 you have it, and they never said okay. So I am hoping this will
20 lead to a wider discussion. Thank you.

21 Mr. Latta. Thank you very much. The gentlelady yields
22 back. And if I may just to go back to what we had a little
23 discussion earlier, again going back to your testimony. From

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1 August the 15th when you were informed that it appeared likely
2 that consumer, that information had been stolen, again why was
3 there again a 10-day delay between finding out about that personal
4 information that could have likely been stolen to developing that
5 remediation plan? That 10-day window, why did it take 10 days
6 to start that remediation?

7 Mr. Smith. Well, Congressman, there was continuous going
8 on around the clock from that time through yesterday trying to
9 develop the product, build the communication plan, stand up
10 websites, inform those that needed to be informed. It wasn't like
11 on a certain date something occurred, it was continual motion by
12 many people for many, many weeks.

13 Mr. Latta. Let me ask just a quick follow-up on that then,
14 because again with that 10-day period of time, when was the
15 appropriate time that it was really to start talking to the
16 consumers at that point in time or again waiting until when you
17 did in September? Because again there was that lag time there
18 when information could have been stolen on individuals.

19 Mr. Smith. Yes. The whole goal was to make sure the data
20 we had was accurate, was clear for the U.S. consumer as possible.
21 Number two was to make sure for the forensic cybersecurity
22 specialists that our environment was as secure as possible.
23 Remember, they said expect increased attacks. Number three was

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1 to stand up the call centers and the websites for hundreds of
2 millions of consumers and that just took time as I alluded to
3 earlier.

4 Mr. Latta. Well, thank you very much. And seeing that
5 there are no other members present to ask questions, we want to
6 thank you very much for testifying before the subcommittee today.
7 And pursuant to committee rules I remind members that they have
8 10 business days to submit additional questions for the record
9 and I ask that the witness submit his response within 10 business
10 days upon request of any questions submitted. Without objection,
11 the subcommittee is adjourned.

12 [Whereupon, at 1:03 p.m., the subcommittee was adjourned.]